100TH CONGRESS
1st Session

SENATE

EXEC. REPT.
100-8

MARPOL CONVENTION, ANNEX V

OCTOBER 14 (legislative day, OCTOBER 13), 1987.—Ordered to be printed

Mr. PELL, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany Treaty Doc. 100-3]

The Committee on Foreign Relations, to which was referred Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78), having considered the same, reports favorably thereon without amendment and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

Annex V, entitled Regulations for the Prevention of Pollution by Garbage from Ships, is an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78). The purpose of Annex V is to prohibit (subject to limited exceptions) the disposal from ships into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags. It also restricts the discharge at sea of other types of garbage to specified distances from the nearest land and mandates that reception facilities capable of holding waste from ships be required at ports and terminals.

BACKGROUND

The discarding of debris as part of normal vessel operations is one of man's oldest pollution practices. Although the Refuse Act of 1899 (33 U.S.C. 403-466 g-l) prohibited the dumping of garbage in rivers and harbors, until recent years there has been no effort to impose sanctions on such practices which occur on the high seas beyond the 3-mile limit.

S 384-5

Since 1899, the type of refuse disposed overboard has changed from degradable materials to waste containing many nondegradable plastic products. In addition to merchant vessels, commercial fishing operations, recreational waste discards, and river runoffs are the major sources through which plastics enter the marine environment.

Exact estimates of the marine plastics problem are unavailable. However, beach surveys and other studies indicate that the problem is widespread. In a 1975 study, the National Research Council of the U.S. National Academy of Sciences estimated that approximately 6.4 million metric tons of trash was discharged into the oceans each year, and of that approximately 0.7 percent or 45,000 tons consisted of plastic garbage. In light of the continuing growth of the plastics industry over the past decade, there is no doubt that, unless checked, even greater quantities of plastic garbage will be dumped into oceans. Recent studies indicate that approximately 640,000 plastic containers are discharged by the world's shipping fleet each day, and each year fishing vessels reportedly dispose at sea approximately 52 million pounds of plastic packaging material and lose more than 298 million pounds of synthetic fishing gear, including nets, lines, and buoys.

A number of studies have documented the large amounts of plastic debris in the marine environment: Benthic sediment surveys off the coast of the United Kingdom showed 2,000 pieces of plastic per square meter, and beach surveys in New Zealand showed even greater concentrations of plastic particles on its beaches. A Mediterranean study revealed 60–70 percent of surveyed debris was plastic, and a recent ocean sample of debris in the North Pacific found the level to be higher than 80 percent. Plastic debris is even appearing on the remote shores of Antarctica. Plastics are being used in increasingly greater quantities, and because of their durability remain in the environment longer than most other manmade substances.

Because much of the plastic debris is lightweight and degrades slowly in the marine environment, once discharged it floats at or near the surface for months, years, even decades, and poses hazards to marine mammals, sea birds, turtles, and fish as well as ships. Over time, floating plastic may accumulate attached marine life and sink to the bottom where it can continue to entangle crabs and other benthic marine life indefinitely.

The threat to marine wildlife posed by plastic essentially takes two forms: Entanglement in loops or openings of nets, net fragments, anchor and float lines, ropes, and packing bands; and ingestion of plastic fragments mistaken for natural items of prey, or taken incidentally because they happen to be associated with living prey. Animals which become entangled may exhaust themselves and drown, be slowed to the point of becoming easy prey for other predators or unable to catch fast moving prey, or develop wounds and infections from the abrasion of attached debris. Animals may be poisoned or have digestive tracts blocked or damaged by ingested plastics that are difficult or impossible to excrete, regurgitate, break down, or otherwise eliminate.

Although available information is not sufficient to quantify the number of individual animals affected by plastic debris in oceans,

available information suggests that lost and discarded fishing nets and packing bands may be the primary cause of an ongoing decline in the North Pacific fur seal population. Entanglement in such materials also may be a significant cause of recent declines in the number of endangered Hawaiian monk seals and perhaps certain populations of Steller sea lions and harbor seals in Alaska. It is also clear that many species of seabirds, turtles, sharks, and fish are being affected by plastic debris to varying degrees throughout the world's oceans. Some of these species are listed as endangered and losses due to entanglement or ingestion add an additional factor inhibiting their potential recovery. Other species such as salmon and various crabs are commercially valuable and losses may reduce potential income for fishermen.

Another harmful effect of ship-generated garbage is its appearance on beaches and shorelines. In the United States, trash and debris is a particular problem at the Padre Island National Seashore, where recent studies indicate the majority of debris to be plastics or plastic derivatives. Aside from its aesthetic damage, garbage may physically injure organisms and humans, and physically damage ships and machinery. Occasionally plastic sheets are picked up in water intakes of a ship, and ropes and nets foul propellers resulting in mechanical damage or delay.

The marine environment is capable of absorbing limited and controlled quantities of wastes and, as such, represents an important resource. Careful control of garbage disposal is necessary to ensure that the harm to the marine environment is minimized.

Major Provisions

Annex V prohibits the disposal into the sea of all plastics, including synthetic ropes, synthetic fishing nets, and plastic garbage bags. For other nonplastic garbage such as floating dunnage, lining, and packing materials, Annex V would require their disposal beyond 25 miles. For food wastes and all other garbage, "including paper products, rags, glass, metal, bottles, crockery, and similar refuse," Annex V would require disposal beyond 12 miles. However, if these items are ground, they can be disposed of as close as 3 miles offshore. In addition, the annex would prohibit garbage disposal from fixed platforms.

Specifically excluded from coverage are accidentally lost fishing nets. Regulation 6 of Annex V excludes "the accidental loss of synthetic fishing nets or synthetic material incidental to the repair of such nets, provided that all reasonable precautions have been taken to prevent such loss." However, this regulation does not specify what "reasonable precautions" are.

Committee Action

On July 31, 1987, the committee held a public hearing on Annex V. Testimony was received from the following individuals: (1) Senator John H. Chafee; (2) Senator Frank R. Lautenberg; (3) Rear Adm. John W. Kime, Chief, Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard, Department of Transportation; and (4) Mr. Richard J. Smith, Principal Deputy Assistant

Secretary for Oceans and International Environmental and Scientific Affairs, Department of State.

The committee considered the treaty at its business meeting on September 24, 1987, and voted 19–0 to report it favorably to the Senate for its advice and consent. Ayes: Senators Pell, Biden, Sarbanes, Cranston, Dodd, Kerry, Simon, Sanford, Adams, Moynihan, Helms, Lugar, Kassebaum, Boschwitz, Pressler, Murkowski, Trible, Evans, and McConnell.

Cost Estimate

The Congressional Budget Office has supplied the committee with the following information on the possible budgetary impact of Annex V:

U.S. Congress,
Congressional Budget Office,
Washington, DC, October 14, 1987.

Hon. Claiborne Pell,
Chairman, Committee on Foreign Relations, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed Treaty Document 100–3, Annex V, regulations for the prevention of pollution by garbage from ships, an optional annex to the 1978 protocol relating to the international convention for the prevention of pollution from ships, 1973, as ordered reported by the Senate Committee on Foreign Relations, September 24, 1987. CBO estimates that the adoption of this treaty by the United States would result in federal costs of about $1 million over two to three years. These funds would be used by the U.S. Coast Guard to issue regulations designed to ensure the availability of garbage reception facilities at U.S. ports and terminals under Regulation 7 of the Annex.

No costs would be incurred by state or local governments as a result of enactment of this bill.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

Edward M. Gramlich,
Acting Director.

Entry into Force

Annex V will enter into force 12 months after the date on which not less than 15 States, the combined fleets of which constitute not less than 50 percent of the gross tonnage of the world's merchant shipping, have become parties to it. Annex V has not yet entered into force, having been ratified by 27 States representing only approximately 45 percent of the world's shipping tonnage. U.S. ratification would increase the tonnage to 49 percent. The following is a list of the nations that have either ratified or acceded to this annex:

Ratifications

United Kingdom; France; Federal Republic of Germany; Poland; Sweden; and Uruguay.

Accessions

Norway; Colombia; Czechoslovakia; North Korea; Denmark; Egypt; Finland; Gabon; German Democratic Republic; Greece; Hungary; Italy; Japan; Lebanon; Oman; Panama; Peru; St. Vincent and the Grenadines; Tunisia; Tuvalu; and Yugoslavia.

Text of Resolutoin of Ratification

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78).

APPENDIX

EXCERPTS FROM HEARING OF JULY 31, 1987

The committee met at 10 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Clairborne Pell (chairman of the committee) presiding.

Present: Senators Pell and McConnell.

The CHAIRMAN. The Committee on Foreign Relations will come to order. Today we meet to hear testimony on Annex V of the 1973 Convention for the Prevention of Pollution from Ships.

Annex V contains regulations for controlling the disposal of garbage from ships.

For years, man has been discarding debris as part of the normal operations of merchant, passenger, fishing, and recreational vessels. In recent years, the refuse disposed overboard has changed from degradable materials to waste containing many nondegradable plastic products. These products pose a serious threat to the marine environment and to wildlife.

The adoption of annex V by the United States and other countries will go a long way toward reducing the amount of garbage disposed of at sea.

Our first witnesses will be Senators Chafee and Lautenberg. Senator Chafee is now with us. I am delighted to welcome him here as my friend, colleague, and neighbor. We both live on the ocean and have seen a lot of this plastic material firsthand.

Senator Chafee.

STATEMENT OF HON. JOHN H. CHAFEE, A U.S. SENATOR FROM RHODE ISLAND

Senator CHAFEE. Thank you very much, Mr. Chairman.

I want to express particularly my thanks to you for giving me the opportunity to speak with you today on the treaty provision which, if enacted, could result in a significant decrease in the amount of plastic being dumped in our oceans.

During the last Congress, I introduced a bill to address the serious problem of plastic pollution in the marine environment.

My reasons for introducing that legislation are painfully apparent to anyone who frequents our beaches, and I am not just, of course, referring to beaches in Rhode Island.

At this point, I would like to read to you part of an article which appeared on July 10 on the front page of the New York Times. It is entitled, "Invasion of Trash From the Sea Overwhelms Coastal States."

This is what the article said: "This morning's tide swept a bountiful harvest from the sea over Bolivar's Beach in Texas: faded

plastic bags, tangled ropes, rubber gloves, egg cartons, thousands of six-packs and soda cans, a plastic container of Milde Shampoo from the Netherlands and a rusty refrigerator.

"Almost all of it was refuse dumped from ships at sea. * * * While many states and localities struggle to find places to put their own garbage, coastal states, from Rhode Island to Texas to Alaska, are coping with tons of seaborne trash from merchant freighters, fishing vessels, and even Navy and Coast Guard Ships. * * *

"The overall problem has led to growing complaints by beachgoers on the Atlantic, Gulf, and Pacific Coasts. * * * The consequences are more than esthetic for the millions of waterfowl and marine animals that each year strangle themselves on plastic debris or choke to death after swallowing plastic pellets or bags."

Mr. Chairman, I recently chaired a Senate hearing on plastic pollution in Rhode Island and heard from several witnesses about the tons of pollution which foul our beaches annually. Of course, no one knows those beaches better than you do, and you have seen the results of this debris washing up on our shores.

Within the last month, I have heard from about 500 constituents urging that steps be taken to address the problem of plastic pollution.

Early in this session, I reintroduced my bill, the Plastic Waste Reduction Act, and also introduced legislation to implement the provisions of Annex V of the International Convention for the Prevention of Pollution from Ships, also known as MARPOL, and the subject of this hearing.

This legislation, as amended, is supported by the administration.

According to an EPA study, most of the plastic in the marine environment comes from ocean sources. That amount is estimated at 6.4 million metric tons a year. While accidental loss of plastic items from ocean vessels and on beaches contributes to the problem of debris, deliberate disposal at sea is a greater problem.

In order for Annex V of MARPOL to enter into force, the treaty must be ratified by nations representing at least 50 percent of the world's shipping tonnage.

Last week, the Soviet Union announced it had ratified annex V, becoming the 28th nation to do so. This creates an opportunity for the United States.

If the Senate approves the resolution of advice and consent for Annex V, nations representing more than 50 percent of the world's shipping tonnage will have ratified the treaty and it will have the force of international law.

May I conclude, Mr. Chairman, with a brief story.

I had the opportunity in Newport recently to meet with a group of sailors who had just completed a singlehanded sailboat race around the world. This race went from Newport to Capetown, from Capetown to Sidney, from Sidney to Rio de Janeiro, and from Rio to Newport. In other words, they had these long legs with only three stops.

These sailors stored all their plastic garbage on board their vessels, despite the inconvenience it caused them, until it could be properly disposed of onshore.

I asked them if they had encountered a great deal of plastic debris on their lonely journey. Without hesitation, they responded

that, indeed, they had seen enormous amounts of plastic strewn across the oceans they sailed on, and it became more concentrated along the coasts.

The Senate Environment and Public Works Committee will be considering my plastics legislation and related legislation introduced by my distinguished colleague from New Jersey, Senator Lautenberg, at a hearing this September. At that time, we will focus on how best to implement the provisions of MARPOL; that is, the Annex V.

It seems to me that it is time that we stop using the ocean as a collective garbage dump for nondegradable material. I strongly urge the distinguished committee to issue a favorable report on the treaty, recommending to the full Senate that we ratify this important annex in the very near future.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Chafee, and thank you for your compelling testimony which will help give a fair breeze to this treaty's journey through the Senate and we hope to ratification.

Thank you very much, indeed.

Senator CHAFEE. Thank you.

The CHAIRMAN. Senator Lautenberg.

STATEMENT OF HON. FRANK R. LAUTENBERG, A U.S. SENATOR FROM NEW JERSEY

Senator LAUTENBERG. Thank you, Mr. Chairman.

I am pleased to be here with my colleague from the Environment and Public Works Committee. As I listened to his story about the sailors who just completed that singlehanded journey around the world, I thought maybe he was going to say it was called the "Chafee Cup," because he, like I, has a deep interest in the sea, in sailing and boats.

As I heard you recount that tale, I thought how I would have liked to have been on that trip, minus the plastics.

Mr. Chairman, thank you for the chance to testify before you this morning. I applaud you for holding this hearing and responding to the requests made by myself, Senator Chafee and others of our colleagues on the Environment and Public Works Committee.

This annex to the International Convention for the Prevention of Pollution from Ships can help respond to a significant threat to our coastal environments and economies, and that threat, simply put, is plastic pollution.

Annex V would prohibit dumping plastics into the oceans throughout the world. It would regulate disposal of other forms of garbage.

It is imperative that the Senate ratify Annex V. To take effect, countries comprising half the world's gross shipping tonnage must ratify the agreement. As you heard, currently we are at about 42 percent, and it is noteworthy that the Russians have agreed to come in and be included in the treaty. Many other countries have ratified, including England, Sweden, Italy, Japan, Egypt, and West and East Germany.

The ratification by the Soviet Union now includes about 6 percent more of the world's shipping tonnage. The United States has about 5 percent. This means that our ratification would put Annex V over the top.

This is long overdue.

The annex was negotiated back in 1973. Unfortunately, this important annex was not transmitted to the Senate for ratification until this year. The Senate should not approach the measure with the same delay as the executive branch.

The problem of plastics pollution and garbage dumped at sea threatens our coastal environments and those economies.

Mr. Chairman, the Environment and Public Works Subcommittee on Environmental Protection has held several hearings on the plastics problem. I recently chaired such a hearing in Asbury Park, NJ. Our hearing made a clear case for the ratification of Annex V and tough domestic legislation to back it up.

We heard from environmentalists; from fishermen's representatives; local, State, and Federal officials; and representatives from our State's tourism and business community.

The very characteristic of plastics that make them valuable, their durability, makes them a serious problem for our marine life, waterways, and coastal areas.

My State has seen plastics pollution first hand. Beach closings in Ocean County, NJ, several months ago gave another example of the problem. Miles of our coast were scarred with tampon applicators, condoms, and other floatables.

Last September, on the beaches of Sandy Hook, a hundred New Jersey environmentalists collected vivid proof of this threat. They reported that in little over 1 hour, they picked up a giant haul from one of the beaches: 700 plastic containers and 6-pack rings, 600 plastic tampon applicators, and other refuse.

When the effort was over, the group had filled a flatbed with garbage—80 percent of it was plastic refuse.

The evidence continues to grow about marine animals entangled in plastic debris and marine animals that have swallowed and choked on plastic junk. Birds and even the great whales have become victims of plastics carelessly discarded into the ocean.

In the northern Pacific Ocean, as many as 250,000 birds and at least 30,000 Northern Fur Seals reportedly die each year from plastics entanglement.

My State knows what this kind of pollution means to the economy and the environment. Our tourism industry depends on clean beaches. About $7 billion a year flows into New Jersey from coastal tourism activity.

Plastics pollution is a problem for tourism, swimmers, recreational boaters, fishermen, and for our marine wildlife, which can choke or strangle on plastic.

We need to stop the flow of pollution from passenger and commercial ships at sea.

According to the Center for Environmental Education, the world's merchant shipping fleet junks 450,000 plastic containers everyday. Merchant ships dump into the oceans more than 12.4 billion pounds of cargo wastes annually, including plastic sheeting and strapping waste. Recreational and sport fishing vehicles junk

more than 100,000 pounds of plastic botties, bags, and other garbage into U.S. coastal waters each year.

What laws do we have to respond?

The answer today is that we don't have any. The Refuse Act of 1899, the Clean Water Act, and the Ocean Dumping Act are not enforced or designed to tackle the problem here at home or internationally.

What we need is Annex V and strong domestic legislation to put it into effect. Annex V would help stop plastic disposal from ships. It would regulate garbage disposal.

It provides the foundation for stopping plastic pollution in U.S. waters and in international waters as well.

The annex has to be implemented in ratifying countries through domestic legislation, and appropriate domestic laws would allow enforcement even against countries that have not ratified.

I introduced legislation of this nature earlier this year. The goal is to put Annex V in place with a structure to make it work effectively.

My bill, the Plastic Pollution Control Act of 1987, would do this. It would establish stiff, criminal and civil penalties for unlawful disposal. It would allow citizens and local officials to sue to enforce the new law.

We would also have EPA study ways to eliminate plastic pollution.

Can we use alternative products? Would labeling help? How about degradable plastics? That is one of the solutions proposed by Senator Chafee.

The bill mandates a comprehensive public awareness program about plastic pollution. The legislation would apply not only to ships, but to other sources as well. It would prohibit plastic disposal on land area, where such refuse could be washed up or blown into the water.

This responds to the fact that land sources, such as the Fresh Kills landfill on Staten Island, which is in New York, are part of the problem, too.

The Environment Committee is now considering my legislation and related measures sponsored by Senator Chafee.

Mr. Chairman, the plastics problem is a serious one. It demands a comprehensive response. Congress must act to protect our coastal environment, and our economies, from this threat.

Ratification of this treaty, Annex V, is a vital first step. I commend the committee for holding this hearing, and I urge quick action, Mr. Chairman, to get this measure to the floor of the Senate.

I look forward to working with the committee in any way that I can to move this Nation forward on the road to ratification and to the elimination of plastics pollution.

Thank you very much.

The CHAIRMAN. Thank you very much, indeed, Senator Lautenberg.

Without objection, I will insert into the record a statement from our colleague, Senator Biden, who cannot be with us this morning, but who has an equally strong statement of support.

[The prepared statement of Senator Biden follows:]

PREPARED STATEMENT OF SENATOR BIDEN

Mr. Chairman, I am pleased that the Foreign Relations Committee is taking the opportunity to review Annex V to the International Convention for the Prevention of Pollution from Ships, commonly known as MARPOL. The treaty addresses a problem—plastic debris in the ocean—which is gaining recognition as a serious environmental problem in coastal areas around the world.

Scientists have become increasingly alarmed by the threat posed to the marine environment by rapidly accumulating plastic debris. Beyond the obvious aesthetic problems caused when this trash washes ashore, plastic trash has proven deadly to many marine animals. Estimates have been made that as many as 2 million sea bird and 100,000 marine mammal deaths result each year from entanglement in plastic nets or ingestion of discarded plastic. And most of the plastic does not disintegrate easily, continuing to threaten marine life for years.

The MARPOL annex that is the subject of today's hearing addresses one source of this pollution—plastic debris from ships which dump their trash before entering port. Recent studies indicate that approximately 640,000 plastic containers are discarded by the world's shipping fleet each day. Incredibly, this practice is perfectly legal, and in fact, even encouraged under current law. Department of Agriculture regulations require all shipboard waste to be incinerated or steam-sterilized before entering American ports. Ships find it much easier to simply dump their refuse near the shoreline instead of treating it on shore.

Annex V of MARPOL would establish international regulations for prohibiting or otherwise restricting discharges into the ocean all types of garbage generated during the normal operation of ships. Specifically, it would prohibit the disposal of all plastics into the sea and ban the dumping of any garbage within 12 miles of shore. It also requires countries party to the treaty to ensure the availability of adequate trash reception facilities at their ports.

An important aspect of the treaty is that it puts into motion an international effort to combat the proliferation of plastic trash in the oceans. Like many environmental problems, the pollution of the ocean is global in scope, and cooperation among the signatories will be crucial to the treaty's success.

Ratification of Annex V is obviously not a total solution to this problem. But it is a critical first step. U.S. ratification of the treaty will bring it closer to the threshold required for the agreement to enter into force. And the leadership on this issue demonstrated by the United States through ratification will encourage other nations that have not yet signed the treaty to follow suit.

Let me stress, however, that the ratification of the treaty by itself does not mean that this problem will disappear. The United States can and should take measures on its own. One important step is to ensure that the Federal Government is effectively responding to other domestic sources of plastic debris in the oceans. The evidence indicates that it is not.

Marine plastic pollution comes from a variety of sources: Military and merchant ships, commercial and sport fishing vessels, and sewage treatment and storm water facilities. Consequently, these

activities come under the regulatory authority of a number of departments and agencies, resulting in a fragmented Federal response.

Earlier this year, Senator Dodd joined me in writing to President Reagan expressing our concern about the lack of coordination at the Federal level, and urging him to establish a high-level, interagency task force to assess the problem. The task force we envision would be charged with developing a comprehensive plan to combat marine plastic pollution. I hope the Senate will quickly ratify Annex V of MARPOL so the United States can join the international effort to reduce this problem. But I also hope that ratification does not become an excuse to avoid taking further steps on this issue. Establishment of the interagency task force called for by me, Senator Dodd, and other Senators will still be needed if we are to get our own house in order.

In closing, I would like to reiterate my appreciation to Senator Pell for holding this hearing. Plastic waste in the marine environment is an international problem requiring international solutions. Although finding and implementing these solutions will not be an easy task, the severity of this problem demands that we start action on it now. Today's hearing recognizes the importance of finding answers to this problem, and I look forward to the testimony of our witnesses.

The CHAIRMAN. I thank you both very, very much, indeed. I realize you were inconvenienced in coming physically to this hearing, but we appreciate your coming. Thank you both.

Senator CHAFEE. Thank you very much, Mr. Chairman.

Senator LAUTENBERG. Thank you.

The CHAIRMAN. We now come to our panel of administration witnesses, consisting of Rear Adm. John Kime, Chief, Office of Marine Safety, Security, and Environmental Protection, of the U.S. Coast Guard, and Mr. Richard Smith, Principal Deputy Assistant Secretary for Oceans and International Environmental and Scientific Affairs of the Department of State.

I understand the Coast Guard was the lead agency in negotiating this treaty, so I would welcome first Admiral Kime.

STATEMENT OF REAR ADM. JOHN WILLIAM KIME, CHIEF, OFFICE OF MARINE SAFETY, SECURITY AND ENVIRONMENTAL PROTECTION, U.S. COAST GUARD, DEPARTMENT OF TRANSPORTATION

Admiral KIME. Good morning, Senator. It is a pleasure again to be here and to appear before you, and especially to appear before you today to present our comments and recommendations in support of U.S. ratification of Annex V, MARPOL, and to highlight the relevant provisions of the administration's legislative proposal to implement Annex V through appropriate amendments to the Act to Prevent Pollution from Ships, or APPS.

Mr. Chairman, the Coast Guard is very concerned about the hazards to the marine environment from the disposal of garbage from ships, particularly plastics and other synthetic materials, including fishing nets.

Currently, U.S. statutes do not adequately address the at-sea disposal of ship-generated garbage.

As you have heard, the principal applicable statute is the Refuse Act of 1899, which prohibits the disposal of garbage into U.S. navigable waters, including the territorial sea. However, this statute is difficult to enforce and prosecute, since a violation carries very small criminal fines.

Additionally, it is important to note that the marine debris problem is not unique to the U.S. coastline, but is prevalent throughout the oceans of the world.

The reality, Mr. Chairman, is that the United States alone cannot resolve this problem. It requires an international solution.

MARPOL, as you may know, is a primarily international regime, aimed at preventing unnecessary discharges from ships. The Coast Guard has been directly involved in the implementation of the mandatory Annexes I and II, which cover accidental and operational discharges of oil and noxious liquid substances carried in bulk.

Annex V is specifically tailored to address garbage pollution from ships.

In brief, the annex prohibits the disposal of all plastics into the oceans, and prohibits the disposal of other forms of garbage inside specified distances from shore.

There are two major advantages in ratifying Annex V in lieu of establishing unilateral domestic standards.

Annex V offers harmony and uniformity through the establishment of international standards to address an international problem. Also, such actions would demonstrate to the world our resolve to protect the marine environment, giving due consideration to the joint efforts of the international community.

Over the past 13 months, the Coast Guard has been working diligently in support of U.S. ratification of Annex V. I chaired the July 2, 1986, public meeting of the National Committee for the Prevention of Marine Pollution, held in preparation for the 23d session of the IMO's Marine Environment Protection Committee, or the MEPC, at which we solicited comments on the desirability of U.S. ratification.

Those attending were unanimous in their support of ratification.

As head of the U.S. delegation, I announced to the MEPC my intention to recommend U.S. ratification of Annex V and subsequently notified the Secretary of State.

In the fall of 1986, the Coast Guard worked extensively with the Department of State to prepare the documents necessary for ratification, which the President transmitted to the Senate on February 9, 1987.

Also in the fall of 1986, the Coast Guard worked closely with NOAA and the Marine Mammal Commission to develop a U.S. proposal recommending the development of international guidelines to assist in the effective implementation and enforcement of Annex V.

This proposal was unanimously accepted by the 24th session of the MEPC, held this past February.

Currently, the United States is taking the lead in preparing these draft guidelines with the assistance of information received from the international community for submission to the 25th session of the MEPC this fall.

The scope of these guidelines will include training, education, and information programs on the marine debris problem, means to minimize the amount of potential garbage, shipboard storage and handling procedures, shipboard equipment for processing garbage, reception facilities, and means to ensure compliance with Annex V.

I want to emphasize that this U.S. initiative has been extremely well received by the international community because it reinforces a fundamental principle of MARPOL, that is, to control pollution of the oceans from ships through global, as opposed to unilateral, standards.

I believe working through MARPOL will ultimately facilitate better international cooperation regarding compliance with requirements.

For example, Mr. Chairman, we have experienced very high compliance rates for the Annex I provision. Preliminary indications for Annex II, which entered into force on April 6 of this year, are also very favorable.

As you know, Mr. Chairman, several bills have been introduced in the House and Senate to implement Annex V. On July 22, Secretary Dole transmitted the administration's proposal to the House and Senate. I have some general comments concerning all of these bills.

The administration believes that, rather than act in separate, freestanding legislation to apply the Annex V regulations, that they be applied through appropriate amendments to APPS. APPS already provides the legal structure for applying the provisions of MARPOL Annexes within the context of the overall convention, including the MARPOL Annex amendment procedure.

Articles IV, V, and VI of MARPOL provide for enforcement on a port-state/flag-state basis. Our proposal would place primary reliance on this regime, which has proven very effective in, one, obtaining broad acceptance of MARPOL; two, agreement on U.S.-sponsored and supported measures to improve Annexes I and II; three, very high worldwide Annex I compliance rates; and, four, meaningful penalties for violations of Annex I requirements.

It is also very important that the U.S. statutory regime implementing Annex V be linked to Annex entry into force before making the regulations effective. This is necessary for application and enforcement of Annex V provisions for foreign investments.

Annex V will enter into force 12 months after the date on which at least 15 states, representing 50 percent of the world's merchant shipping tonnage, have become party to it.

This 12-month period gives the administration time to promulgate regulations and establish reception facilities. Officially, 27 states, representing 41.86 percent of the world's shipping tonnage, have ratified. However, I recently learned through the exchange of telexes on July 14 and 15 with my counterpart in the Sovet Union, that they have just ratified Annex V, and that official deposit of the instrument of ratification at IMO is forthcoming.

I confirmed this through a telephone conversation with the IMO Secretary General.

This will bring the cumulative tonnage up to approximately 48 percent and should open the door for the United States, with 4.91 percent, to bring the annex into force internationally.

In short, Mr. Chairman, all eyes are upon the United States.

Mr. Chairman, substantial criminal sanctions and efficiently assessable civil penalties for violations of the Annex V regulations are critical to achieving effective enforcement.

Our proposal would apply the same sanctions and penalties that are currently in APPS and applicable to Annexes I and II.

Our legislative proposal also requires that persons in charge of ports and terminals provide garbage reception facilities, and it provides the authority to deny entry to a ship if the port or terminal is not in compliance.

We do not believe any Federal agency should provide or arrange for these reception facilities, nor should the Federal Government shoulder the cost of augmenting them.

Representatives from the Department of Agriculture had previously advised that they anticipate these services being provided by private industry, and we concur with that assessment.

It is essential that the implementing legislation for Annex V provide the flexibility necessary for enforcement and compliance. Again, the voluntary international guidelines will describe additional measures to assist in effective enforcement, engineering, and education, the "Three E's" as they have been coined.

As to the coverage of public vessels, our proposal does not alter the approach taken in APPS, which essentially provides that public vessels, so far as is reasonable and practicable, act in a manner consistent with MARPOL.

In closing, Mr. Chairman, I would like to emphasize that the approach being sought by this administration offers the best opportunity and flexibility to facilitate essential international cooperation in addition to providing full protection to the U.S. coastline.

Mr. Chairman, I ask your support for early ratification and also for passage of the administration's legislative proposal to implement the provisions of Annex V.

We would be pleased to work with your committee on suggested implementing language or other matters that relate to Annex V, Mr. Chairman.

I have summarized my statement, sir, and would request, respectfully, that the full statement be entered for the record.

The CHAIRMAN. Without objection, your full statement will be in the record.

[The prepared statement of Admiral Kime follows:]

PREPARED STATEMENT OF REAR ADM. J. WILLIAM KIME, CHIEF, OFFICE OF MARINE SAFETY, SECURITY AND ENVIRONMENTAL PROTECTION, U.S. COAST GUARD

Rear Admiral John William Kime became Chief, Office of Marine Safety, Security and Environmental Protection in Washington, in 1986. This office resulted from combining the Offices of Merchant Marine Safety and Marine Environment and Systems, each of which RADM Kime had previously headed.

RADM Kime was graduated from Baltimore City College in 1951 and the U.S. Coast Guard Academy in 1957. He received a Master of Science degree in naval architecture and marine engineering

and the professional degree of naval engineer from Massachusetts Institute of Technology in Cambridge (1964).

RADM Kime served in deck and engineering assignments on board the Coast Guard Cutter *Casco* before assuming command of Loran Station Wake Island in 1960. He served at Coast Guard Headquarters in the Merchant Marine Technical and Naval Engineering Divisions and afloat in Boston, as the first engineering officer aboard Coast Guard Cutter *Boutwell.*

While at Headquarters, he served as the principal U.S. Negotiator at the International Maritime Organization (IMO) in London, during the drafting of the IMO Code for Liquefied Gas Ships and was in charge of the structural design of the polar star class Coast Guard icebreakers.

In 1977, RADM Kime was a distinguished graduate of the Industrial College of the Armed Forces and was assigned to Coast Guard Headquarters as Assistant Chief of the Merchant Marine Technical Division, and both general coordinator and member of the U.S. Delegation to the International Conference on Tanker Safety and Pollution Prevention (TSPP) in London, in 1978.

RADM Kime assumed duty as Commanding Officer, Marine Safety Office, Baltimore, in 1978. He was assigned to Coast Guard Headquarters in 1981 as Deputy Chief of the Office of Marine Environment and Systems and was Chief, Operations Division of the Seventh Coast Guard District, Miami, from 1982 until 1984 where his duties included daily direction of Coast Guard drug and illegal migrant interdiction in the Caribbean. RADM Kime has headed the U.S. delegation to the IMO Maritime Safety Committee and Marine Environment Protection Committee.

He is a Registered Professional Engineer, member of Tau Beta Pi, Sigma XI, ASME, ASNE and SNAME. His decorations include the Defense Superior Service Medal, five Meritorious Service Medals with operational distinguishing device, the Commendation Medal, the Achievement Medal, three Commandant's Letter of Commendation Ribbons with operational distinguishing device, two Unit Citations with operational distinguishing device and the Meritorious Unit Citation.

RADM Kime, a Greensboro, N.C., native, is married to the former Valerie Jean Hiddlestone of Pontardulais, South Wales.

Good morning, Mr. Chairman, I am Rear Admiral J. William Kime, Chief of the Coast Guard's Office of Marine Safety, Security and Environmental Protection at Coast Guard headquarters in Washington, D.C. It is a pleasure for me to appear before you today to present our comments and recommendations in support of U.S. ratification of Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, as revised by the 1978 protocol relating thereto (MARPOL 73/78), and to highlight the relevant provisions of the administration's legislative proposal to implement Annex V through appropriate amendments to the Act to Prevent Pollution from Ships (APPS), 33 U.S.C. 1901 et seq.

Mr. Chairman, in previous testimony before other congressional committees, I have stated the Coast Guard's concerns regarding the hazards to the marine environment from garbage, particularly plastics and other synthetic materials including synthetic fishing nets; and I have stressed the importance of establishing interna-

tional standards to solve this international problem through implementation of Annex V of MARPOL 73/78. As evidence continues to mount indicating the magnitude and severity of the marine debris problem, including but not limited to U.S. coastal States, I can add that we have never been more firm in our resolve to realize the goal of U.S. ratification of Annex V and ultimately its worldwide implementation than we are today.

Current U.S. statutes do not adequately address the at sea disposal of ship generated garbage. The principally applicable statute is the Refuse Act of 1899 (33 USC 407) which prohibits the disposal of garbage into U.S. navigable waters including the territorial sea. However, this statute is difficult to enforce and prosecute since a violation or contravention carries very small criminal fines. On the other hand, Annex V of MARPOL 73/78 is specifically tailored to address this global problem.

MARPOL 73/78 as you may know, Mr. Chairman, is the primary international regime aimed at preventing unnecessary and uncontrolled discharges of pollutants into the oceans of the world from ships. The Coast Guard has been directly involved in the implementation of MARPOL 73/78 since the international conference on marine pollution which adopted the 1973 convention. Annex V of MARPOL 73/78, regulations for the prevention of pollution by garbage from ships, offers the potential for establishing considerably more stringent and enforceable discharge requirements for garbage, including plastics, on a worldwide basis. This annex, in brief, prohibits the disposal into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags. It provides that the disposal into the sea of other garbage be made as far as practicable from the nearest land but in any case is prohibited if the vessel's distance from the nearest land is less than:

25 nautical miles for dunnage, lining and packing materials which will float, and

12 nautical miles for food waste and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse.

There are three exceptions to the discharge prohibitons relating to safety of personnel and the ship, escape resulting from damage to a ship, and accidental loss of synthetic fishing nets.

There are two major advantages to ratifying Annex V in lieu of establishing unilateral domestic standards. Annex V offers harmony and uniformity through the establishment of international standards to address an international problem. Also, such actions would demonstrate to the world our resolve to protect the marine environment giving due consideration to the joint efforts of the international community.

In this regard, the Coast Guard has been working diligently over the past thirteen months since we began the formal process towards achievement of this highly worthwhile and desirable goal. I would now like to highlight the major aspects of these actions.

At the July 2, 1986 public meeting of the National Committee for the Prevention of Marine Pollution (NCPMP), held in preparing for the 23rd session of the International Maritime Organization's (IMO) Marine Environment Protection Committee (MEPC), mem-

bers of the marine industry, environmental organizations and other public interests were asked to comment on Annex V regulations and the desirability of U.S. ratification. Those attending the meeting were unanimous in their support for ratification. As head of the U.S. delegation I announced to the MEPC my intention to recommend U.S. ratification of Annex V. This recommendation was subsequently included in the official delegation report to the Secretary of State.

As you may know, Mr. Chairman, Annex V has not been ratified by the required number of countries representing sufficient tonnage to bring it into force internationally. The relative inactivity since 1973 when the annex was originally negotiated has been primarily due to the higher international priorities for the entry into force and implementation of the mandatory Annexes I and II which prevent and regulate accidental and operational discharges of oil and noxious liquid substances shipped in bulk. Also, certain countries, including the U.S., have not ratified because they feel changes are necessary to make Annex V more meaningful and enforceable. In 1985, the U.S. Interagency Working Group (consisting of representatives from the USCG, NOAA, EPA, Department of Interior, Department of Agriculture, Department of Transportation, and Department of State) studying Annex V recommended an amendment at Annex V to clarify and strengthen the prohibition on disposal of nonrepairable sections of synthetic fishing nets. I was the head of the U.S. delegation to the 21st session (April 1985) of the MEPC that formally presented this recommendation on behalf of the U.S. at its 23rd session (July 7–11, 1986) the MEPC agreed to this amendment which will be circulated in preparation for adoption as soon as Annex V enters into force.

In the fall of 1986, the Coast Guard worked extensively with the Department of State to prepare the documents necessary for ratification of Annex V of MARPOL 73/78. As you may know, Mr. Chairman, on February 9, 1987, the President transmitted Annex V to the Senate for its advice and consent to ratification.

Also in the fall of 1986, the Coast Guard worked closely with the National Oceanic and Atmospheric Administration (NOAA) and the Marine Mammal Commission (MMC) to develop a U.S. proposal recommending the development of international guidelines to assist in the effective implementation and enforcement of Annex V of MARPOL 73/78. This proposal was submitted to the 24th session (February 16–20, 1987) of the MEPC and was unanimously accepted.

Currently, the U.S. is taking the lead in preparing these draft guidelines with the assistance of information received from IMO member governments and international shipping, trade and observer organizations for submission to the 25th session of the MEPC scheduled for November 30–December 4, 1987.

The scope of these guidelines will include: training, education, and information programs for seafarers and the public on the marine debris problem; means to minimize the amount of potential garbage; shipboard storage and handling procedures for garbage; shipboard equipment for processing garbage; reception facilities; and means to ensure compliance with Annex V of MARPOL 73/78. Incorporated in the latter will be provisions for control and en-

forcement by national authorities, and positive incentives and voluntary measures to discourage potential violations.

Mr. Chairman, I want to emphasize that this U.S. initiative has been extremely well received by the international community because it reinforces a fundamental principle of MARPOL 73/78; that is, to control pollution of the oceans from ships through global as opposed to unilateral standards. I believe working through MARPOL 73/78 will ultimately facilitate better international cooperation regarding compliance with the requirements. For example, Mr. Chairman, we have experienced very high compliance rates for the Annex I provisions of MARPOL 73/78 (covering pollution by oil from ships) as identified through our vessel boarding enforcement program. The most recent data available covering the 1985 calendar year shows a better than 98 percent compliance rate as compared to 95 percent for the previous year. Other governments have reported similar compliance rates (i.e., Japan—100 percent, United Kingdom—96 percent, Federal Republic of Germany—90 percent, and Norway—97 percent). To put these results in a better perspective, it must be remembered that Annex I has only been in force since October 2, 1983. Furthermore, for cases involving alleged violations reported by the U.S. to the flag state in which sufficient evidence was present, meaningful penalties were levied by the flag state. Although it is too early to generate specific compliance data for Annex II of MARPOL 73/78 (covering pollution by noxious liquid substances carried in bulk from ships), which just entered into force on April 6, 1987, preliminary indications are very favorable as well. I am convinced this success is largely due to the global acceptance of Annexes I and II standards.

As you know, Mr. Chairman, several bills have been introduced in the House and Senate to implement Annex V. I would now like to provide some general comments concerning these bills as they pertain to our legislative proposal.

The administration believes that rather than enacting separate "free standing" legislation to apply the Annex V regulations, that they be applied through appropriate amendments to the Act to Prevent Pollution from Ships (APPS), 33 U.S.C. 1901 et seq. The reason for this is that APPS provides the legal structure for applying the provisions of MARPOL 73/78 annexes within the context of the overall convention regime. Especially important in this connection is the MARPOL 73/78 annex amendment procedure prescribed in article 16 of the convention and implemented by section 10 (b) and (c) of APPS. Of course, all of the amendment procedures, regulatory structure, and enforcement provisions currently contained in APPS could be duplicated in "free standing" legislation. However, such an approach is less efficient and would not facilitate a careful, comprehensive review of the implementing legislation of the convention (including the 1978 protocol), when in the future, modifications to parts of its regime are found to be necessary. Should it be necessary to apply special policies to particular annexes of MARPOL 73/78, this can certainly be done within the context and framework of APPS. The implementing legislation that we have prepared would implement Annex V through amendments to APPS. We believe our approach would be the most effective means to accomplish the basic goals of the necessary legislation.

Articles 4, 5, and 6 of MARPOL 73/78 provide for enforcement on a port state/flag state basis. Our proposal would place primary reliance on this port state/flag state application and enforcement regime which has proven so effective in the following areas:

Obtaining broad, international acceptance of MARPOL 73/78;

Obtaining prompt, broad agreement on U.S. sponsored and supported measures to improve Annexes I and II of MARPOL 73/78;

Obtaining a very high degree of worldwide compliance with Annex I; and

Obtaining meaningful penalties for violations of Annex I requirements when they occur.

More specifically, our proposal would divide the ships subject to Annex V into three categories. These are: ships operating under the authority of the United States, ships operating under the authority of foreign countries which are parties to Annex V, and ships operating under the authority of foreign countries which are not parties to Annex V. Insofar as U.S. and other Annex V parties are concerned, our proposal follows the pattern employed by APPS. U.S. ships would be subject to Annex V requirements and the act's enforcement procedures wherever those ships are located.

Ships of countries which are party to Annex V would be subject to Annex V requirements and the act's enforcement procedures only while within the navigable waters of the U.S. Beyond the territorial sea (3 mile limit) provision is made for forwarding evidence of violations of Annex V, wherever those violations occur, to the respective flag states for prosecution.

Ships of countries which are not party to Annex V would be subject to regulations conforming to and giving effect to Annex V requirements while they are in the navigable waters of the United States or the U.S. exclusive economic zone; and they would be subject to the act's enforcement procedures, consistent with customary international law, when they violate those regulations. In this regard, it is our view that when Annex V enters into force for the U.S., its relevant regulations can be applied in the exclusive economic zone to non-Annex V party ships as generally accepted international standards. We believe that this approach would provide full protection to the U.S. coastline and additional impetus for non-Annex V party states to ratify Annex V.

We are seriously concerned that United States application of the Annex V regime to the exclusive economic zone, in regard to vessels of other party staffs, would be counter productive. Such extension could deter broad, global acceptance; entry into force; enforcement and subsequent improvement of the Annex V regime.

Mr. Chairman, it is also very important the the U.S. statutory regime implementing Annex V be linked to Annex V entry into force before making the regulations effective. The international legal regime must be in force for application and enforcement of Annex V provisions to foreign vessels. Annex V will enter into force twelve months after the date on which not less than fifteen (15) states, representing fifty (50) percent of the gross tonnage of the world's merchant shipping have become parties to it. This twelve month period is provided to give administrations time to de-

velop and promulgate regulations and to ensure that reception facilities are available. Officially, 27 states representing 41.86 percent of the world's shipping tonnage have ratified it. However, we recently learned through an exchange of telexes on July 14th and 15th with my counterpart in the Soviet Union that they have just ratified Annex V, and that official deposit of the instrument of ratification at IMO is forthcoming. This was subsequently confirmed through a telephone conversation with the IMO Secretary General. This will bring the cumulative world's tonnage up to approximately 48 percent, and has opened the door for the United States with 4.91 percent to bring the annex into force internationally. In short, Mr. Chairman, all eyes are upon us.

Mr. Chairman, substantial criminal sanctions and efficiently assessable civil penalties for violations of the Annex V regulations are critical to achieving effective enforcement. We believe that, within the scope of the act and consistent with international law, willful violators of Annex V should be subject to the same criminal sanctions (not more than $50,000 or 5 years imprisonment, or both) and civil penalties (not more than $25,000) that are currently in APPS and applicable to Annexes I and II.

Our legislative proposal also includes the requirement that persons in charge of ports and terminals provide garbage reception facilities as required by regulation; and the authority to deny entry of a ship to a port or terminal required by regulations to provide those reception facilities, if the port or terminal is not in compliance with those regulations. We believe this is necessary to ensure that reception facilities would, in fact, be available at ports or terminals as required. Mr. Chairman, no Federal agency should be required to provide or arrange for these reception facilities, nor should the Federal Government shoulder the cost of augmenting them. At present the Secretary of Agriculture regulates certain types of garbage entering the U.S., and representatives from that Department have previously advised that they anticipate reception facility voids being filled by private industry.

At this point, Mr. Chairman, I will add that it would be excessive and difficult to establish mandatory requirements of any type involving the shoreside presentation of garbage by ships upon their arrival in port; and that such requirements would be virtually unenforceable. It is essential that the implementing legislation for Annex V provide the flexibiiity necessary for enforcement and compliance in light of the widespread international support, favorable endorsements by U.S. merchant shipping and fishing industries, and the variety of ports (for example, marinas, yacht basins, small fishing villages) which would be required to have adequate reception facilities. Furthermore, from our experience with Annexes I and II of MARPOL 73/78, we anticipate most ship operators will act responsibly without our having to initiate additional requirements. Again, the voluntary international guidelines which we are preparing with other governments at IMO will describe additional measures to assist in effective enforcement of the annex. For example, one of the recommendations we are considering is the establishment of a garbage record book to maintain an accountability of ship's stores and supplies received onboard and garbage disposed of at sea or ashore. Because these guidelines will also have

the support of the international community, we can anticipate their widespread useage.

As to the coverage of public vessels, our proposal does not alter the approach currently taken in section 3(d) of APPS. Under that provision, the heads of the respective Federal departments and agencies are directed to prescribe standards for public vessels which shall ensure, so far as is reasonable and practicable without impairing their operations or operational capabilities, that they act in a manner consistent with MARPOL 73/78 (which would include Annex V when it enters into force). As for Coast Guard vessels, Mr. Chairman, they have already been instructed to comply with the Annex V prohibitions, including the absolute prohibition against plastic disposal at sea.

In closing, Mr. Chairman, I want to emphasize that the Coast Guard, being a seagoing service with law enforcement responsibilities, is especially aware of the difficulties of enforcement of the Annex V provisions at sea, particularly the detection of violations regardless of which enforcement regime applies. Enforcement of these or any garbage disposal statutes for the marine environment will not be easy. However, the approach being sought by this administration offers the best opportunity and flexibility to facilitate essential international cooperation in this worthwhile endeavor in addition to providing full protection to the U.S. coastline. This cooperation will not be limited to establishment and application of the necessary legal authority, but will include an ongoing commitment to educate seafarers and the public worldwide as to the severe consequences from plastic pollution in the marine environment.

As I noted, we have a great deal of experience of effective control under Annex I of MARPOL 73/78 and some under Annex II from which we can expect enforcement of the Annex V provisions to also be vigorously pursued by those nations which are parties to Annex V. I am convinced a global effort coordinated within the framework of the MARPOL 73/78 regime will succeed in reducing the quantity of marine debris in the oceans.

I ask your support for early ratification and passage of the legislation we have prepared to implement the provisions of Annex V of MARPOL 73/78. We will be pleased to work with your committee on suggested implementing language or other matters related to Annex V.

Thank you, Mr. Chairman. I would be pleased to answer any questions you or members of the committee may wish to ask.

Admiral KIME. Thank you, Mr. Chairman.

I would be pleased to answer any questions you may have.

The CHAIRMAN. Thank you, Admiral Kime.

Mr. Smith.

I would add that your full statement will be entered into the record. I have had a chance to go through it, so if you would care to summarize it, it would be appreciated.

STATEMENT OF RICHARD J. SMITH, PRINCIPAL DEPUTY ASSISTANT SECRETARY FOR OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS, DEPARTMENT OF STATE

Mr. SMITH. Thank you.

Mr. Chairman, I appreciate the opportunity to appear before your committee in support of Annex V to the 1978 Protocol relating to the International Convention for the Prevention of Pollution from Ships.

MARPOL 73/78, negotiated under the auspices of the the International Maritime Organization, is the primary international agreement aimed at eliminating pollution of the marine environment from ships by preventing unnecessary and uncontrolled discharges of pollutants from ships into the oceans of the world.

Mandatory Annexes I and II, which deal with pollution by oil and noxious liquid substances in bulk, respectively, are in force, both internationally and for the United States. Optional Annexes III and IV, which deal with pollution from packaged harmful substances and sewage, respectively, are still the subject of ongoing review and are not yet in force internationally.

Each year, marine debris, particularly plastic, is responsible for the loss of larger numbers of marine animals, sea turtles, fish, and birds, as a result of entanglement and ingestion. In addition, several coastal States are experiencing, as has been mentioned earlier, severe problems due to beach litter attributed directly to the discharge of plastics and other marine debris from ships.

Annex V establishes international regulations which would prohibit or otherwise restrict discharges into the oceans of all types of garbage generated during the normal operation of ships.

Annex V will not completely solve the marine debris problems since garbage enters the marine environment from many sources other than ships. In addition, enforcement of Annex V will be difficult. However, we believe that effective implementation of Annex V will make a significant contribution to reducing the amount of vessel-generated marine debris, and is a critical first step toward solution of the overall problem.

In brief, Annex V of MARPOL, which applies to all vessels except those entitled to sovereign immunity—and for those, parties must ensure that the sovereign immune vessels comply so far as is reasonable and practicable—prohibits the disposal by ships into the sea of all plastics, including, but not limited to, synthetic ropes, synthetic fishing nets and plastic garbage bags.

It provides that the disposal into the sea of other garbage be made as far as practicable from the nearest land, but in any case is prohibited if the ship's distance from the nearest land is less than: 25 nautical miles for dunnage, lining, and packing materials, which will float; and 12 nautical miles for food wastes and all other garbage including paper products, rags, glaws, metal, bottles, crockery, and similar refuse.

In addition, Annex V prohibits disposal of all garbage regulated by the annex from fixed and floating platforms, engaged in seabed mineral resource activities, except for comminuted food wastes from platforms more than 12 nautical miles from land.

There are exceptions to the discharge prohibitions: disposal of garbage necessary for the purpose of securing the safety of the ship and those on board or saving life at sea; or escape of garbage resulting from damage to a ship or its equipment; or accidental loss of synthetic fishing nets or synthetic material incidental to the repair of such nets.

With respect to the latter two exceptions, all reasonable precautions must be taken to prevent escape or loss.

Taking your suggestion, why don't I let the record take care of the rest of my comments, except to say that we are aware that Annex V has received broad support from the environmental community, the affected industries, and all concerned executive branch departments and agencies.

U.S. ratification would demonstrate to the world our resolve to protect the marine environment and our support for joint efforts of the international community, working through the International Maritime Organization and other fora toward this goal.

Mr. Chairman, the Department of State strongly supports ratification of MARPOL Annex V, and we urge your committee to report it favorably to the full Senate for its advice and consent to ratification.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF RICHARD SMITH, DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

Mr. Chairman, I appreciate the opportunity to appear before your Committee in support of Annex V to the 1978 Protocol relating to the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78).

MARPOL 73/78, negotiated under the auspices of the International Maritime Organization (IMO), is the primary international agreement aimed at eliminating pollution of the marine environment from ships by preventing unnecessary and uncontrolled discharges of pollutants from ships into the oceans of the world. Mandatory Annexes I and II which deal with pollution by oil and noxious liquid substances in bulk, respectively, are in force both internationally and for the United States. Optional Annexes III and IV which deal with pollution from packaged harmful substances and sewage, respectively, are still the subject of ongoing review and are not yet in force internationally.

Each year marine debris, particularly plastic, is responsible for the loss of large numbers of marine mammals, sea turtles, fish and birds as a result of entanglement and ingestion. In addition, several coastal states are experiencing severe problems due to beach litter attributed directly to the discharge of plastics and other marine debris from ships.

Annex V establishes international regulations which would prohibit or otherwise restrict discharges into the oceans of all types of garbage generated during the normal operation of ships. Annex V will not completely solve the marine debris problem since garbage enters the marine environment from many sources other than ships. In addition, enforcement of Annex V will be difficult. Howev-

er, we believe that effective implementation of Annex V will make a significant contribution to reducing the amount of vessel generated marine debris and is a critical first step toward solution of the overall problem.

In brief, Annex V of MARPOL which applies to all vessels except those entitled to sovereign immunity (states parties must ensure that sovereign immune vessels comply so far as is reasonable and practicable) prohibits the disposal by ships into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags. It provides that the disposal into the sea of other garbage be made as far as practicable from the nearest land but in any case is prohibited if the ship's distance from the nearest land is less than:

25 nautical miles for dunnage, lining and packing materials which will float, and

12 nautical miles for food wastes and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse.

In addition, Annex V prohibits disposal of all garbage regulated by the Annex from fixed and floating platforms engaged in seabed mineral resource activities, except for comminuted food wastes from platforms more than 12 nautical miles from land.

There are three exceptions to the discharge prohibitions:

(1) Disposal of garbage necessary for the purpose of securing the safety of the ship and those on board or saving life at sea; or

(2) Escape of garbage resulting from damage to a ship or its equipment; or

(3) Accidental loss of synthetic fishing nets or synthetic material incidental to the repair of such nets.

With respect to the latter two exceptions, all reasonable precautions must be taken to prevent escape or loss.

Recently, the United States proposed a technical amendment to the third exception which would clarify and strengthen the prohibition on disposal of synthetic material used to repair fishing nets by deleting the reference to such material in the exception. This technical amendment was informally accepted by the competent body of the IMO and will be formally circulated for adoption in accordance with MARPOL's tacit amendment procedure after entry into force of Annex V. This approach obviates the need to make the amendment prior to entry into force, which is a concern of countries that have already ratified Annex V.

Under Annex V, reception facilities capable of accepting garbage from vessels will be required at U.S. ports and terminals. We have been advised by the Department of Agriculture, which currently regulates the disposal of garbage from foreign sources entering U.S. ports, as well as the U.S. Coast Guard that they anticipate this void being filled by private industry. Furthermore, we have been advised in discussions with representatives of waste management companies that they fully support U.S. ratification of Annex V and are prepared to construct facilities if they can be certain of a sufficient volume of business. Administration proposed legislation would require that persons in charge of ports and terminals provide garbage reception facilities required by regulation.

Annex V provides for "special areas" where, because of oceanographic and ecological conditions, special disposal requirements with respect to garbage apply. In these areas, subject to the exceptions I have referred to, only food wastes may be disposed of and such disposal must be more than 12 nautical miles from the nearest land. Because of the unique circulation patterns and important commercial fishery and other historical use patterns, the Gulf of Mexico is under active U.S. consideration for proposal to the IMO for designation as a special area. Should studies, which are currently near completion support such a designation, the United States will hold consultations with neighboring countries and initiate the process of amending Annex V, after its entry into force, to include the Gulf of Mexico as a special area.

Annex V will enter into force 12 months after the date on which at least 15 States, the combined fleets of which constitute at least 50 percent of the gross tonnage of the world's merchant shipping, have become parties to it. Annex V has not yet entered into force internationally. It has been ratified by 27 States, but they represent only about 42 percent of the world's shipping tonnage. Recent information indicates that the Soviet Union, which represents about six percent of the world's shipping tonnage, has ratified Annex V and will deposit its instrument of ratification with the IMO in the near future. The United States represents a little over 4% of the world's tonnage. As such, our ratification would contribute the necessary tonnage to bring Annex V into force.

Annex V has received broad support from the environmental community, the affected industries and all concerned Executive Branch departments and agencies. United States ratification would demonstrate to the world our resolve to protect the marine environment and our support for joint efforts of the international community working through the International Maritime Organization and other fora toward this goal.

Mr. Chairman, the Department of State strongly supports ratification of MARPOL Annex V and we urge your Committee to report it favorably to the full Senate for its advice and consent to ratification.

The CHAIRMAN. Thank you very much, Mr. Smith.

Your full statement will appear in the record as if read. I appreciate your compassion in shortening it. I have had the opportunity to read your testimony and the Admiral's and also the treaty. So I am familiar with it.

I have one question for Admiral Kime that just came to mind as you testified. You mentioned that your opposite number in the Soviet Union had been in communication with you. Who would your opposite number be? I did not know they had a Coast Guard in the Soviet Union.

Admiral KIME. That would be Mr. Oleg Khalimonov, Mr. Chairman.

The CHAIRMAN. Of what bureau?

Admiral KIME. He is the Director of the Soviet Marine Pollution Control Authority of the U.S.S.R. Ministry of the Merchant Marine.

The CHAIRMAN. But I am correct in saying that they do not have a Coast Guard like we do?

Admiral KIME. I believe that is correct. Yes, sir.

The CHAIRMAN. Thank you.

Annex V is part of the 1973 Convention for the Prevention of Pollution from Ships. The administration transmitted Annex V for advice and consent this winter, February 17.

Why did the administration wait for such a long period of time to comply with the annex?

Admiral KIME. Mr. Chairman, I believe, as I indicated in my testimony, that was primarily due to higher priorities being given in the international community, in the administration, in the Congress, and I believe among members of the public, for the effective coming into force of the mandatory annexes, Annex I and Annex II. I can say that in the case of Annex I, based on international statistics, its coming into force has resulted in 500 million gallons less of oil being dumped in the oceans of the world each year, and 125 million of those gallons would have been dumped off the coast of the United States.

Also, we estimate that Annex II coming into force has resulted in 3 million less gallons of hazardous materials being dumped in the oceans of the world every year.

I would also point out, Mr. Chairman, that we felt that Annex V, as written, did require additional work to make it more effective. We recognized that we could not amend the annex until it came into force. We also felt that if the United States ratified, we would lose our clout internationally at the IMO in developing an atmosphere whereby other countries were receptive to such amendments and to developing guidelines. That really is what we have done.

Mr. Chairman, I think the important thing is that this administration has now submitted this to the Senate, and I believe we are joined by just about everyone who has spoken on this subject, in saying that its ratification is highly desirable.

The CHAIRMAN. You are right, because our committee has—received communications from the Governors of Alaska, Hawaii, and Delaware, 13 Senators, 4 Congressmen, the duPont Company. In fact, the only opposition has come from the Offshore Marine Service Association, which is worried about the cost of the reception facilities.

Are you aware of their objections? What would be your response to their concerns? Who does pay for the reception facilities for the disposal of the garbage?

Admiral KIME. Mr. Chairman, we are aware of their concerns. Reception facilities will be in our belief provided in the same manner as for Annex I and Annex II, and that has been done very, very successfully. They would be the responsibility of the ports.

We believe, as I have indicated in my testimony, that this would be provided by the private sector. The Department of Agriculture has indicated that they see no problems with the necessary reception facilities, and also the waste industries around the country have testified before the Congress that they foresee this as an economic opportunity.

We believe that natural competition and the working in the marketplace will keep the prices at a reasonable level.

The CHAIRMAN. But the ships involved would have to pay for it themselves privately.

Admiral KIME. Mr. Chairman, first of all, MARPOL does not prohibit the discharge of all materials into the oceans—just plastics and other materials within certain distances. So, by utilizing a bit of discretion aboard the vessels, ships can minimize the amount of material that they will have to discharge.

Mr. Chairman, in many cases, unless we have foodstuffs that come from overseas, the only requirement is to take it ashore and to put it into a dumpster. So we are not talking about a great increase in the material that does have to go ashore; just a relatively small amount, if we consider all the ships that come into U.S. ports.

The CHAIRMAN. My question to you is do we, as a reception country, for example, have an obligation to provide this free to a foreign vessel coming into our port?

Admiral KIME. No, Mr. Chairman, we do not.

The CHAIRMAN. In other words, what we are committing ourselves to, is to have a facility available, but the cost will have to be worked out in the private market?

Admiral KIME. Yes, sir. Mr. Chairman, I believe that is the way it will be handled in most countries around the world also.

The CHAIRMAN. Thank you.

I do not want to hog the microphone today. Do you have any questions, Senator McConnell?

Senator MCCONNELL. Mr. Chairman, I don't have any questions. I just stopped by to learn something about an area that I do not know much about.

Please go right ahead.

The CHAIRMAN. Thank you. I appreciate your comments.

How does the Coast Guard intend to enforce the regulations? Will you need more manpower?

This would be one more burden that is laid on your back. You have already been given the responsibility for drug enforcement and fisheries enforcement, and at the same time you have been given a reduced budget. It would seem to me that this would be one further reason why your budget should be raised.

Admiral KIME. Well, Mr. Chairman, we certainly would agree with your assessment of the workload. I certainly would associate myself with your remarks about the level of our budget.

We recognize the realities that exist in the budget climate of the Federal Government today and we have approached this enforcement problem with the idea in mind of minimizing the manpower intensity of this upon the Coast Guard and still have it effective.

In developing the guidelines we were talking about, we were thinking about such things as implementing such requirements as record books for receipt and discharge of garbage, much as we have for oil, which has worked so effectively; also the requiring the posting of placards, as we have for oil pollution, which, again, state the requirements and the penalties, which has been effective.

We are also in our enforcement mechanism, looking for foreign governments to take a major part of the enforcement effort through their vessels that are party to the convention and might pollute outside of the 3 miles.

The CHAIRMAN. You mentioned penalties. What are the penalties in this treaty for the private ship that would violate the treaty?

Admiral KIME. In the administration's bill, Mr. Chairman, the penalties are the same as for Annexes I and II. That is $25,000 a day civil penalties for normal violations; and for a willful violation, it carries a criminal penalty of up to $50,000 and up to 5 years in prison.

The CHAIRMAN. Would you have the right to board vessels in enforcing this out to the 200-mile economic EEZ?

Admiral KIME. Mr. Chairman, first of all, as far as a port State enforcement mechanism, we would combine this with our normal boardings that we have right now for prevention of pollution from oil, et cetera, and also for port safety and security.

Our bill would provide the port-state/flag-state enforcement mechanism outside of 3 miles for those countries flying the flag of parties to the convention. This would mean that we would gather the evidence, submit it both to the International Maritime Organization and to the flag state. They would be bound to report back to us and to the IMO in a very formal and public manner as to the actions they had taken.

With Annex I, we have found it very, very effective. Compliance with Annex I in 1985, in the United States, based on over 7,700 boardings, is in excess of 98 percent.

The CHAIRMAN. As you know, there has been some controversy in connection with those boardings, particularly in carrying not only sidearms, but rifles. If they do it, what would be the custom in this case?

Admiral KIME. Mr. Chairman, I think, as far as the concern in the drug law enforcement effort about boarding pleasure vessels with sidearms, Admiral Yost, our commandant, has taken a very strong initiative to reduce that criticism. I think he has spoken to that previously.

This is a very high, ongoing priority with him.

For the enforcement of Annex V, I believe we would normally do this the same way that we have done for the other annexes, and this we looked at as a separate form of law enforcement, aside from our enforcement of laws and treaties and prevention of drugs entering this country.

The CHAIRMAN. And unless there is any reason to the contrary, you probably would not board with rifles, but just with sidearms.

Admiral KIME. I would say that is correct, sir. I think most of the boardings for enforcement of Annex V would probably be done inside U.S. territorial waters, normally in port, checking of records of compliance, and if we saw a willful discharge, of course then we possibly would board.

The CHAIRMAN. Thank you.

When I was in the Coast Guard many years ago, I remember they had sabres. I am sure they don't have those anymore.

The ships from Liberia and Panama and Honduras are flags of convenience. Have those countries ratified these regulations?

Admiral KIME. Mr. Chairman, Panama has ratified. They represent about 10 percent of the tonnage worldwide. Liberia, which represents about 13 percent, has not ratified. I think the other country you mentioned was—was what, sir?

The CHAIRMAN. Honduras.

Admiral KIME. I do not have any indication that Honduras has ratified. [Pause.]

Mr. Chairman, Secretary Smith has mentioned that it might be useful to submit for the record a list of those countries who have ratified and those which have not ratified, and also an indication of the percentage of the world tonnage for those that have not ratified.

So, with your permission, I would like to do that.

The CHAIRMAN. I would be appreciative of that.

[The information referred to follows:]

STATUS OF MARPOL 73/78

[As of January 10, 1987]

	Percent [1]	Annexes I and II	Optional annexes	
			Annexes III and V	Annex IV
State:				
Bahamas	1.48	X		
Belgium	.60	X		
Brunei Darussalam	.00	X		
Bulgaria	.34	X		
China	2.86	X		
Colombia		X	X	X
Czechoslovakia		X	X	X
Democratic People's Republic of Korea		X	X	X
Denmark		X	X	X
Egypt		X	X	X
Finland		X	X	X
France		X	X	X
Gabon		X	X	X
German Democratic Republic		X	X	X
Germany, Federal Republic of		X	X	X
Greece		X	X	X
Hungary		X	X	X
Iceland	.40	X		
India	1.62	X		
Indonesia	.52	X		
Israel	.14	X		
Italy		X	X	X
Japan		X	X	X
Lebanon		X	X	X
Liberia	13.00	X		
Netherlands	1.07	X		
Norway		X	X	
Oman		X	X	X
Panama		X	X	X
Peru		X	X	X
Poland		X	X	X
Republic of Korea	1.77	X		
St. Vincent and Grenadines		X	X	X
South Africa		X		
Spain	1.34	X		
Sweden		X	X	X
Tunisia		X	X	X
Tuvalu		X	X	X
USSR (ratified August 14, 1987)		X	X	X
United Kingdom		X	X	
United States	4.91	X		
Uruguay		X	X	X
Yugoslavia		X	X	X
Total number		43	28	26
Percentage tonnage		79.90	48	42.86

[1] Percentage of world's gross tonnage of States not party to the optional annexes.

The CHAIRMAN. Also, have any of the nations that have ratified had reservations or understandings, or have they all ratified without reservation?

Admiral KIME. I can answer that, Mr. Chairman. No country has ratified with a reservation.

The CHAIRMAN. Or understandings.

Admiral KIME. Or an understanding that I know of.

The CHAIRMAN. Do you think, Admiral, that the Coast Guard will be able to enforce these regulations against all American-flag vessels within the economic zone?

Admiral KIME. I think we will, Mr. Chairman. I think with the help of the international community, when our vessels are in foreign ports, we will be able to enforce the provisions.

I indicated that direct enforcements as we normally term it, is not the only way that we are going to get plastics and the garbage out of the ocean. We have a major educational problem facing us, just as we did with highway pollution. I mentioned among the other three "E's," besides enforcement and education, there is engineering, such as ongoing by the U.S. Navy now, to develop the technology for shipboard compactors that could help reduce quantities of plastic material down into smaller packages that could be retained aboard, even warships, until it could be discharged ashore.

The CHAIRMAN. When we are dealing with public vessels, I believe this annex does not apply to public vessels used for noncommercial purposes. That would include the Navy, which I think is the biggest in the world, the Coast Guard, which I believe is the sixth largest navy in the world, and vessels of NOAA. Will they voluntarily comply with this annex? How will they be handled?

Admiral KIME. I can speak first for the Coast Guard, Mr. Chairman, by saying that we have already issued instructions, regulations to our ships, that they comply with the provisions of MARPOL Annex V as written.

We can also say that, based on past practice of public vessels, including the U.S. Navy in compliance with Annex I, where the requirements would be of a voluntary nature, that they have taken great steps, and are basically in compliance with Annex I, the pollution from oil.

We would expect that all public vessels would take the same approach to Annex V. I have heard representatives from the U.S. Navy testify this week and last week on this subject, and that they feel they can comply with the exception of plastics. They have a major research program underway to develop this compactor that I talked about, and they believe that that would be available within the next year or two, so that they, too, could come into full compliance.

The CHAIRMAN. Would this apply to NOAA vessels and to research vessels as well?

Admiral KIME. Yes, sir, in the same way as it would apply to Coast Guard and Navy vessels.

The CHAIRMAN. What about the naval vessels of other countries who have ratified?

Admiral KIME. Mr. Chairman, the convention, as Secretary Smith said, excludes public vessels, which have immunity from the provisions of the annex. But our feeling on that would be that foreign vessels would take the same approach as they have for Annex I, and that is generally to be in compliance with the international conventions.

I believe, Mr. Chairman, that this is a very sensitive subject in other countries also, not just the United States.

The Federal Republic of Germany, for instance, and Japan are very, very much concerned, as is the United Kingdom, because they are facing exactly the same problem on their beaches and with their wildlife that we are facing in the United States.

The CHAIRMAN. I thank you both very much, indeed. I don't think there are any other questions.

If there are any, they will be submitted to you in writing at a later date.

This concludes this hearing.

[Whereupon, at 10:45 a.m., the hearing was concluded.]

[Additional material submitted for the record follows:]

PHIL GRAMM
TEXAS

United States Senate

WASHINGTON, D.C. 20510

September 4, 1987

Honorable Claiborne Pell
Chairman
Committee on Foreign Relations
U.S. Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing to urge the Committee to approve Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973, (MARPOL 73/78).

Annex V would ban the disposal from ships into the sea of all plastics and would place restrictions on the discharge at sea of other types of garbage. As one who is familiar with the significant problems created as a result of garbage washing ashore on the Texas Gulf Coast, I am confident that approval of this measure will be an important step forward in protecting our environment.

Approval by the Committee and ratification by the Senate would be particularly timely because 28 nations representing 48% of the world's merchant shipping tonnage have already endorsed Annex V. U.S. ratification, adding about 5% to that tonnage figure, would boost the total beyond the 50% required to put Annex V into effect.

I hope the Committee can act quickly on this very important legislation in order that the Senate be given an opportunity to consider the proposal before the end of this session.

Thank you for your consideration of this vital matter and please let me know if there is any way that I can be assistance to you.

Yours respectfully,

Phil

PHIL GRAMM
U.S. Senator

BILL BRADLEY
NEW JERSEY

United States Senate

WASHINGTON, DC 20510

COMMITTEES:
FINANCE
ENERGY AND NATURAL RESOURCES
SELECT COMMITTEE ON INTELLIGENCE
SPECIAL COMMITTEE ON AGING

June 30, 1987

RECEIVED
JUL 06 1987

The Honorable Claiborne Pell
Chairman
Foreign Relations Committee
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing to you because of my concern about the increasing danger to the marine environment from disposal of plastics in the sea. It has been brought to my attention that Annex V of the International Convention for the Prevention of Pollution from Ships (MARPOL), if accepted for ratification, will prohibit the disposal of plastics in international waters and bring us closer to reducing this assault on our environment.

The importance of this issue extends not only to both of our coastal states but to the rest of the world and marine life as well. Although 27 nations have ratified the treaty already, approval by the United States is certain to influence ratification by nations which have not yet acted. I urge your expedient consideration of the treaty for Congressional approval, so that we can implement Annex V as soon as possible.

I will be pleased to support and assist your efforts in any way possible to achieve ratification of the treaty.

Sincerely,

Bill Bradley

Bill Bradley

BB/babb

731 HART BUILDING
WASHINGTON, DC 20510
(202) 224-3224

P.O. BOX 1720
UNION, NJ 07083
(201) 688-0080

1 GREENTREE CENTRE
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QUENTIN N. BURDICK, NORTH DAKOTA, CHAIRMAN
DANIEL PATRICK MOYNIHAN, NEW YORK
GEORGE J. MITCHELL, MAINE
MAX BAUCUS, MONTANA
FRANK R. LAUTENBERG, NEW JERSEY
JOHN B. BREAUX, LOUISIANA
BARBARA A. MIKULSKI, MARYLAND
HARRY M. REID, NEVADA
BOB GRAHAM, FLORIDA
ROBERT T. STAFFORD, VERMONT
JOHN H. CHAFEE, RHODE ISLAND
ALAN K. SIMPSON, WYOMING
STEVE SYMMS, IDAHO
DAVE DURENBERGER, MINNESOTA
JOHN W. WARNER, VIRGINIA
LARRY PRESSLER, SOUTH DAKOTA
PETER D. PROWITT, STAFF DIRECTOR
SALLY GUARD, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

June 9, 1987

JUN 1 1987

The Honorable Claiborne Pell
Chairman
Foreign Relations Committee
U.S. Senate
Washington, D.C. 20510

Dear Claiborne:

We are writing to request that the Foreign Relations Committee act quickly to approve a resolution for the ratification of Annex V to the International Convention for the Prevention of Pollution from Ships, as modified by the 1978 Protocol. As you know, Annex V, which prohibits disposal of garbage at sea, has been submitted by the President for Senate consideration.

Plastic pollution of our oceans is a serious and pervasive environmental problem. Thousands of animals, including seals, sea turtles, whales, and other marine species die each year as a direct result of plastic pollution. Marine mammals and birds become entangled in or ingest plastic debris. This can cause drowning, prevent food absorption, or cause death by starvation. Nearly 250,000 birds die each year in the Northern Pacific as well as 30,000 fur seals, and hundreds of other species.

As you may know, Annex V must be ratified by 15 countries whose vessels comprise 50% of the world fleet's gross tonnage before it becomes effective. At present, 27 nations with 41.85% of the world's gross tonnage have ratified Annex V. The United States has 4.6% of the total tonnage.

Our oceans and the marine life which inhabit them are precious resources which must be aggressively protected from plastic wastes. Action is required if we are successfully to address this pressing environmental problem.

We hope that the Foreign Relations Committee can take favorable action on our request and approve a resolution in ratification of Annex V. Your consideration is deeply appreciated.

Sincerely,

Quentin N. Burdick

Frank R. Lautenberg

Robert T. Stafford

George J. Mitchell

Dave Durenberger

Daniel P. Moynihan

Barbara Mikulski

Max Baucus

Bob Graham

Harry Reid

John W. Warner

MARIO BIAGGI, NEW YORK
GLENN M. ANDERSON, CALIFORNIA
GERRY E. STUDDS, MASSACHUSETTS
CARROLL HUBBARD, JR., KENTUCKY
DON BONKER, WASHINGTON
WILLIAM J. HUGHES, NEW JERSEY
MIKE LOWRY, WASHINGTON
EARL HUTTO, FLORIDA
W.J. (BILLY) TAUZIN, LOUISIANA
THOMAS M. FOGLIETTA, PENNSYLVANIA
DENNIS M. HERTEL, MICHIGAN
ROY DYSON, MARYLAND
WILLIAM O. LIPINSKI, ILLINOIS
ROBERT A. BORSKI, PENNSYLVANIA
THOMAS R. CARPER, DELAWARE
DOUGLAS H. BOSCO, CALIFORNIA
ROBIN TALLON, SOUTH CAROLINA
ROBERT LINDSAY THOMAS, GEORGIA
SOLOMON P. ORTIZ, TEXAS
CHARLES E. BENNETT, FLORIDA
THOMAS J. MANTON, NEW YORK
OWEN B. PICKETT, VIRGINIA
JOSEPH E. BRENNAN, MAINE
GEORGE J. HOCHBRUECKNER, NEW YORK

U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, DC 20515-6230

DANIEL CLARK
DOUGLAS K. WALSH
CHIEF CLERK
MARGARET CLARK
MINORITY STAFF DIRECTOR
GEORGE E. PEASE
MINORITY CHIEF COUNSEL
DUNCAN E. SMITH II

RECEIVED
APR 23 1987

April 22, 1987

The Honorable Claiborne Pell
Chairman
Committee on Foreign Relations
423 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

We are writing to urge you to take prompt action toward ratification of Annex V to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL). Annex V establishes international regulations prohibiting the disposal of plastic garbage from vessels and restricting the discharge of all other types of garbage generated during the normal operation of ships.

The House Subcommittee on Coast Guard and Navigation conducted a hearing last Congress to examine the problems associated with the presence of plastic garbage and other debris in the marine environment. A substantial amount of evidence presented at the hearing demonstrated the lethal effects of plastics on marine wildlife through entanglement and ingestion. The testimony indicated that an enormous amount of plastic debris is currently being discharged by ships and that there is an undisputed and immediate need for legislative action to prohibit the disposal of plastic materials into the marine ecosystem.

Additionally, our Subcommittee on Oversight and Investigations held a field hearing in Corpus Christi, Texas, to review the escalating problem of seaborne refuse and its impact on Gulf Coast beaches. Testimony presented at that hearing also indicated that vessels are a primary source of plastic debris in the marine environment.

It is our understanding that the instruments of ratification of Annex V are currently pending before the Senate Committee on Foreign Relations. To encourage prompt ratification, we urge you to schedule action on Annex V by the full Committee as soon as possible. Furthermore, we stand ready to act on H.R. 940, which would implement Annex V, early this session in order to achieve the coastal and marine protections afforded by the Annex.

In summary, we would urge you to act expeditiously on this important matter, and we extend to you our appreciation for your sustained leadership in this and other matters of importance in international marine affairs.

Sincerely,

Walter B. Jones
Chairman
Committee on Merchant Marine and Fisheries

Gerry E. Studds
Chairman
Subcommittee on Fisheries and Wildlife Conservation and the Environment

Robert Davis
Ranking Minority Member
Committee on Merchant Marine and Fisheries

Don Young
Ranking Minority Member
Subcommittee on Fisheries and Wildlife Conservation and the Environment

WILLIAM V. ROTH, JR.
DELAWARE

104 HART SENATE OFFICE BUILDING
TELEPHONE: 202-224-2441

COMMITTEES
GOVERNMENTAL AFFAIRS
FINANCE
JOINT ECONOMIC COMMITTEE
SELECT COMMITTEE ON INTELLIGENCE

United States Senate
WASHINGTON, DC 20510

SENATE
RECEIVED
APR 8 1987
FOREIGN RELATIONS

April 7, 1987

APR 08 1987

The Honorable Claiborne Pell
Chairman,
Committee on Foreign Relations
United States Senate
Washington, DC 20510

Dear Claiborne:

We are writing you in support of Annex V of MARPOL which addresses the pollution and dumping of garbage from ships. As you know the Senate and the Foreign Relations committee must ratify this Annex.

As Senators from coastal states and imminently involved in matters that have an economic and environmental impact on our estuaries, coastal bays and marine life, we find the continuation of this practice appalling. This Annex is an important step in the effort to stop ocean dumping of plastics and other garbage and the resultant debris that collects on our beaches.

We look forward to addressing this issue with you. With our best regards.

Sincerely:

John H. Chafee
U.S. Senator

William V. Roth, Jr.
U.S. Senator

WVR/pck

STEVE COWPER
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

July 7, 1987

The Honorable Claiborne Pell
Chairman
Senate Foreign Relations Committee
United States Senate
Washington, DC 20510

Dear Senator Pell:

I am writing on behalf of the State of Alaska to express my support for Annex V of the International Convention on the Prevention of Pollution from Ships (MARPOL). I would also like to express my support for legislation to regulate and study plastic pollution of the ocean.

We are all aware that plastics and other marine litter in our oceans result in the degradation of our coastal waters and shorelines. Not only does marine litter pollute our estuaries, beaches, and landfills, but it also causes unintended injury and death of marine animals. This problem is prevalent in our beautiful State of Alaska. Seabirds on and surrounding the Aleutian Islands have become the unintended victims of driftnets. Action must be taken to prevent this from occurring.

In this effort, the State of Alaska supports the adoption of MARPOL, whose recommendations have been forwarded to Congress.

Among other things, MARPOL would prohibit the disposal of plastics at sea, which includes synthetic ropes and fishing nets and garbage bags. I am urging that these recommendations be given prompt consideration, so that they may be ratified at the earliest possible moment.

Because MARPOL would not implement these recommendations in the United States, domestic legislation that addresses this issue must also be passed. I would appreciate any support that you might provide in any legislative efforts.

Thank you for your interest in this important issue. I look forward to your response.

Sincerely,

Steve Cowper
Governor

cc: Senator Ted Stevens
Senator Frank Murkowski
Congressman Don Young

7/7/87

State of California
SACRAMENTO

JANANNE SHARPLESS
Secretary of
Environmental Affairs

RECEIVED
JUN 23 1987

June 18, 1987

The Honorable Claiborne Pell
Chairman, Senate Foreign Relations Committee
United States Senate
SR-335 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Pell:

I am writing to urge you to immediately consider Annex V of the International Convention on the Prevention of Pollution from Ships (MARPOL). It is most important that the matter come before the entire Senate for ratification early this summer.

The Annex prohibits the disposal of plastics at sea, including synthetic ropes, fishing nets and garbage bags. To date, approximately 27 nations have ratified this measure.

Since this measure is not self-implementing, enactment of Congressional legislation will be necessary to bring the United States into compliance with its provisions. Therefore, I not only request you support this matter when it is brought up for ratification, but also ask you to support S.535 (Chafee, R-Rhode Island) which would implement the treaty's provisions in U.S. waters.

Sincerely,

Jananne Sharpless

Jananne Sharpless
Secretary of Environmental Affairs

cc: Richard T. Dewling, Commissioner
Department of Environmental Protection
State of New Jersey
CN 402
Trenton, New Jersey 08625

1102 Q STREET, SACRAMENTO, CALIFORNIA 95814 (916) 322-5840

STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
& ENVIRONMENTAL CONTROL
89 KINGS HIGHWAY
P.O. BOX 1401
DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

TELEPHONE (302) 736-4403

RECEIVED
MAY 18 1987

May 12, 1987

The Honorable Claiborne Pell
Chairman of the Foreign
Relations Committee
Senate Russell Building, Suite 419
Washington, DC 20510

Dear Senator Pell:

Delaware, being a coastal state, is very much concerned with plastics in the marine environment. At present, there is a way to curtail the disposal of plastics at sea by ships, namely Annex V of the International Convention on the Prevention of Pollution from Ships.

We request you give immediate consideration to Annex V so it may come before the full Senate for ratification early this year.

Very truly yours,

John E. Wilson III
Secretary

cc: U.S. Sen. William V. Roth
U.S. Sen. Joseph R. Biden, Jr.

JEW:CAL:ef

Florida House of Representatives

Joe Mills, Speaker
Committee on Natural Resources

Sidney Martin
Chairman

Alfred "Al" Lawson, Jr.
Vice Chairman

September 2, 1987

Senator Claiborne Pell
Senate Dirksen Building
Room 446
Washington, D.C. 20510-6225

Dear Senator Pell:

I have been informed that you will soon be voting on the ratification of Annex V of the International Convention for the Prevention of Pollution from Ships (MARPOL), which bans the dumping of plastics in the ocean and prohibits the dumping of any garbage within twelve miles of shore. As Chairman of the Committee on Natural Resources, Florida House of Representatives, I would like to register my support for Annex V.

In Florida, we are becoming aware of the many dangers of improper disposal of garbage. Plastic garbage, the primary target of Annex V, is a dangerous component of our garbage problem since it does not readily decompose. In particular, plastic garbage that ends up in our oceans around the world has been estimated to cause the deaths of as many as two million seabirds and 100,000 marine mammals each year. Ratifying Annex V can help prevent loss of marine life.

Please vote favorably for Annex V of MARPOL. It's a chance to band together with other nations to protect the oceans of the world and the creatures that live there.

Sincerely,

Sidney Martin

Sidney Martin, Chairman
House Natural Resources Committee

SM/hlb

Steve Pajkowsky, Staff Director
306 House Office Building Tallahassee, Florida 32399-1300 (904) 488-1564

EXECUTIVE CHAMBERS

HONOLULU

JOHN WAIHEE
GOVERNOR

June 6, 1987

The Honorable Claiborne Pell
Chairman, Foreign Relations Committee
United States Senate
Washington, D.C. 20510

Dear Senator Pell:

It has recently come to my attention the Annex V of the International Convention on the Prevention of Pollution from Ships (MARPOL) has been forwarded to the U.S. Senate for its advice and consent. It would be in the best interest of the world's marine species if immediate consideration were given to Annex V so that it may come before the full Senate for ratification as soon as possible.

We are in support of Annex V, as it prohibits the disposal of plastics at sea, including synthetic ropes, fishing nets and garbage bags. Each year, thousands of metric tons of plastic fishing gear are lost or discarded at sea, killing sea birds and marine animals.

We are encouraged to see that President Reagan has also asked the Senate to ratify Annex V. To date, 27 nations have ratified Annex V and other nations are expected to follow suit once the United States approves the Annex.

Thank you for allowing us to present our comments.

With kindest regards,

Sincerely,

JOHN WAIHEE

cc: The Honorable Daniel Inouye
The Honorable Spark Matsunaga

BROWNING-FERRIS INDUSTRIES

Richard F. Goodstein
Washington Counsel
Director of Federal Relations
202/223-8153

April 15, 1987

The Honorable Claiborne Pell
Chairman, Senate Committee on Foreign Relations
335 Russell Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

On behalf of Browning-Ferris Industries, I am writing in connection with ratification of Annex V of the MARPOL Treaty. As one of the nation's leading waste services companies, BFI takes great interest in Annex V, which would reduce significantly the amount of solid waste dumped offshore by ships of all kinds.

We understand that some questions have been raised as to whether private enterprise is positioned to receive waste from ships. It is the view of BFI that private waste services companies would be able to handle shipboard waste. BFI, for example, operates in 41 states and in approximately 200 congressional districts. The bulk of BFI's business is in the hauling and disposal of solid waste, principally commercial and industrial waste. Providing reception facilities pursuant to Annex V would appear to dovetail with our current lines of business as soon as the market for such waste is created by ratification and implementation of Annex V.

BFI endorses any measure -- whether domestic or international -- which would prevent the pollution of the oceans and would eliminate the accumulation of waste on our nation's beaches and coastlines. Therefore, both as a business venture and to provide a service to our nation's ports and to protect our shores, we support enactment of Annex V at the earliest possible time. We urge the committee to hold hearings and to seek full Senate action promptly.

Should you or your staff have any questions in connection with the role of the solid waste industry in implementation of Annex V, please feel free to contact me.

Sincerely,

Richard Goodstein

Richard F. Goodstein

RECEIVED
JUL 06 1987

DUPONT
E. I. DU PONT DE NEMOURS & COMPANY
WILMINGTON, DELAWARE 19898

CHAIRMAN OF THE BOARD

June 29, 1987

The Honorable Claiborne Pell
United States Senate
SR-335 Russell Senate Office Building
Washington, DC 20510-3901

Dear Senator Pell:

I am writing to you to voice the Du Pont Company's support for the United States' ratification of Annex V of the International Convention for the Prevention of Pollution from Ships (MARPOL).

This annex to MARPOL will regulate the at-sea disposal of garbage, especially plastic products, from ocean going vessels. Du Pont, as a manufacturer of plastic resins and as a responsible user of the ocean for waste disposal, supports legislation or treaties which would regulate improper ocean disposal.

Ratification of the annex to MARPOL, along with the passage of appropriate implementing legislation, will begin a process to eliminate a significant source of ocean pollution and greatly reduce the unsightly and unhealthy accumulation of this type of material along our coastal beaches.

We urge you to support ratification of Annex V of MARPOL and appropriate implementing legislation.

Sincerely,

R. E. Heckert

REH:smw

THE OCEANIC SOCIETY

EDUCATION • RESEARCH • CONSERVATION

EXECUTIVE OFFICES
1536 16th Street, N.W.
Washington, D.C. 20036
(202) 328-0008

July 31, 1987

The Honorable Claiborne Pell
Chairman, Senate Foreign Relations Committee
Room 446 Senate Dirksen Building
Washington, D.C. 20510

Dear Mr. Chairman:

The Oceanic Society greatly appreciates consideration by the Senate Foreign Relations Committee of United States ratification of Annex V of the International Convention for the Prevention of Pollution from Ships.

As a private sector advisor on the U.S. delegation to the past three sessions of the Marine Environment Protection Committee of the International Maritime Organization, I have witnessed first-hand the leadership role that the United States plays in negotiating for international regulation of pollution from ships. U.S. ratification of Annex V is needed if we are to maintain that role.

On behalf of the Oceanic Society, I respectfully request that the attached written statement in support of U.S. ratification of Annex V be included in the record of today's hearing.

Sincerely,

Sally Ann Lentz

Sally Ann Lentz
Staff Attorney

Attachment

THE OCEANIC SOCIETY IS A NON-PROFIT, 501 (C) (3) ORGANIZATION
CONTRIBUTIONS ARE TAX-DEDUCTIBLE

THE OCEANIC SOCIETY

EDUCATION • RESEARCH • CONSERVATION

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July 31, 1987

Statement of Sally Ann Lentz
On Behalf of
The Oceanic Society
Before the
Senate Committee on Foreign Relations
Concerning
United States Ratification of Annex V

The Oceanic Society is a 40,000 member non-profit organization devoted to the protection, conservation and wise management of marine and coastal resources. In all of our activities we are dedicated to protecting the oceans for the people and wildlife that depend upon them for life, livelihood and enjoyment. We appreciate the opportunity to present the following statement for the record concerning United States ratification of Annex V.[1]

The Oceanic Society has long been concerned with the marine environmental consequences associated with uses of our oceans and coastal areas. During the eighteen years since its founding, we have conducted a wide range of scientific and technical research, education and public policy programs in our continuing effort to focus the attention of decision makers and resource managers on the need for information-based marine policies.

The oceans, though vast and covering over 70 percent of the earth, are a vulnerable and complex environment. Numerous unique and important species live in or depend upon the oceans. Too often, however, our ocean and coastal resources are mismanaged due to narrow, short range special interests, with inadequate scientific understanding of the consequences. We have seriously damaged some of our coastal waters, where marine life is more plentiful. Much

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1. The Society is a member of the Entanglement Network, a consortium of environmental, conservation and animal protection groups concerned about the problem of plastic and marine debris. Many of the views expressed in this statement have been endorsed by members of the Entanglement Network in related Congressional hearings. See, e.g., July 23, 1987 Statement of Sally Ann Lentz on Behalf of the Entanglement Network Coalition Before the House Subcommittee on Fisheries and Wildlife and Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries.

less is known about long-term threats to the deeper oceans, but there are strong signs of damage there, too.

Policies affecting the future of the ocean and its resources must be developed with environmental consequences as a primary consideration. They must be set with appropriate respect for the linkages in the ecosystem. An ecological ethic is essential in order to ensure the protection, conservation and wise use of our vital marine resources. It is in this context that plastic pollution in the marine environment must be considered.

Problems caused by plastics and other persistent synthetic materials (including fishing nets) in the marine environment have resulted in growing public concern. Mounting evidence continues to demonstrate that large numbers of marine mammals,[2] birds,[3] turtles[4] and commercially important fisheries are lost as a result of entanglement in and ingestion of plastic materials. Lost and discarded fishing nets result in inadvertent destruction of living marine resources.[5] In addition, plastic bags, plastic spherules for packaging,[6] and plastic packing straps and rings contribute significantly to the problem.

As reported by the Secretariat of the London Dumping Convention, the Workshop on the Fate and Impact of Marine Debris held from 27 to 29 November,

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2. Fowler, C., "Entanglement as an explanation for the decline in northern fur seals of the Pribilof Islands," 25th Annual Meeting of the Standing Scientific Committee, North Pacific Fur Seal Commission (1982); Henderson, J. R., "A review of Hawaiian monk seal entanglements in marine debris," Workshop on the fate and impact of marine debris, 26-29 November (1984); Shaughnessy, P.D., "Entanglement of Cape fur seals with man-made objects," 11 Marine Pollution Bulletin 332-336 (1980).

3. Day, R.H. et. al., "Ingestion of plastic pollutants by marine birds," Workshop on the fate and impact of marine debris, 26-29 November (1984).

4. Balazs, G.H., "Impact of ocean debris on marine turtles: entanglement and ingestion," Workshop on the fate and impact of marine debris, 26-27 November (1984).

5. Degange, A.R. & Newby, T.C., "Mortality of seabirds and fish in a lost salmon driftnet," 11 Marine Pollution Bulletin 322-323 (1984); Eisenbud, R., The Pelagic Driftnet. FAO World Conference on Fisheries Management and Development, 27 June - 6 July (1984); Greenpeace, "Driftnets," Ocean Ecology Series, Fall (1985); Hammond, C., "Derelict gill net reported to National Marine Fisheries Service, Alaska Region in 1983," Workshop on the fate and impact of marine debris, 26-29 November (1984); High, W.L., "Some consequences of lost fishing gear," Workshop on the fate and impact of marine debris, 26-29 November (1984).

6. Carpenter, E.J. & Smith, J.L. Jr., "Polystyrene spherules in coastal waters," Science 178 749-750 (1972).

1984, in Honolulu, Hawaii concluded that "there is ample evidence that debris of both terrestrial and shipborne origin are widespread in the marine environment," and "substantial qualitative evidence indicates these interactions are contributing to increased mortality over that resulting from natural causes."[7] The workshop recommended that the problem be addressed through measures aimed at education, collection of information and mitigation.

The marine debris problem is attributed not only to dumping of municipal waste and ship-generated garbage, but also to the discharge of materials "via inland waterways and outfalls from plants that manufacture plastic."[8] These land-based sources are more appropriately regulated by domestic or regional agreements, whereas at-sea activities can and should be regulated internationally, and complemented by more stringent domestic laws.[9]

Recognizing that the problem of plastic marine debris is an international one requiring international solutions, the United States currently has an opportunity to play an instrumental role in influencing international regulation of the problem of plastics in the marine environment. United States ratification of Annex V of the International Convention for the Prevention of Pollution from Ships (MARPOL) would constitute an important step toward achieving that goal.

MARPOL Annex V

The International Convention for the Prevention of Pollution from Ships (MARPOL) provides a legal mechanism for regulating five categories of ship-generated pollution through each of its five annexes, as follows: Annex I - oil; Annex II - chemicals carried in bulk; Annex III - hazardous substances in packaged form; Annex IV - sewage; and Annex V - garbage.[10]

The problem of plastics and marine debris is addressed in Annex V, which contains a provision prohibiting "the disposal into the sea of all plastics,

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7. "Environmental Hazards Caused by the Loss or Disposal at Sea of Fishing Nets and Other Marine Debris," Note by the Secretariat, LDC9/INF.4, 15 July 1985.

8. Wehle, D.H.S. and F.C. Coleman, "Plastics at Sea," 2 Natural History 20 (1983).

9. "Montreal Guidelines for the Protection of the Marine Environment Against Pollution from Land-based Sources," adopted by the Ad Hoc Working Group of Experts on the Protection of the Marine Environment against Pollution from Land-based Sources, the United Nations Environment Program (UNEP) Montreal, Canada. UNEP/WG.120/L.1/Add.2, April 18, 1985.

10. International Convention for the Prevention of Pollution from Ships, 1973, in "International Conference on Marine Pollution," 1973, International Maritime Organization, Publication 520 77.14E (1984).

including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags."[11]

Only two of MARPOL's five annexes -- Annexes I and II, governing oil and chemicals in bulk, respectively -- have entered into force, having obtained ratification by states representing at least 50 percent of the world's shipping tonnage. Annex V of MARPOL has not yet entered into force. Including the Soviet Union's recent ratification, Annex V has obtained ratification by 28 states representing 48.2 percent of the world's shipping tonnage. United States ratification would contribute an additional 4.91 percent to bring the Annex into force.

Once it enters into force, implementation of Annex V is expected to make a significant contribution to reducing the amount of plastics and other debris in the marine environment. Currently, under U.S. law, ship-generated garbage goes largely unregulated beyond the three-mile territorial sea. Ratification of Annex V would require domestic implementing legislation that would result in more stringent controls on discharges of garbage and plastics from ships than currently exist.

Specifically, U.S. ships will be prohibited from dumping plastics within or beyond the three-mile territorial sea. Practically, ships will have several options for satisfying this requirement of the Annex. Some vessels may choose to purchase supplies not packaged in plastic, or to eliminate the use of plastic disposable items (plates, cups, bags) so as to minimize the accumulation of plastics on board. Ships may segregate plastic garbage from other kinds of garbage for onshore disposal at reception facilities. The use of compactors or shredders will further minimize accumulation of plastic. Some ships may opt to install onboard garbage incinerators for disposing of their waste, but such incinerators should be carefully regulated to prevent pollution of the marine environment from stack emissions.

Under Annex V, dumping of other types of garbage will be restricted as well. Dumping of dunnage, lining and packing materials that float is prohibited within 25 nautical miles from the shore, and dumping of all other garbage is prohibited within 12 nautical miles from shore. It is likely that many if not most states will find it necessary to adopt more stringent domestic laws to comply with these provisions of Annex V.

The Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO) oversees implementation of MARPOL and its annexes. The work of the MEPC focused initially on Annexes I and II relating to oil and chemicals carried in bulk. In recent years, the MEPC has turned its attention to the so-called "optional" annexes -- III, IV and V. A review of the optional

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11. Regulation 3 (1)(a) provides a prohibition on disposal of plastics outside "special areas" and Regulation 5 (2)(a)(1) provides for the same prohibition within, "special areas." "Special areas" for purposes of Annex V include the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area and the "Gulfs area."

annexes has taken place to determine if changes are needed in order to obtain the necessary ratifications for their entry into force. Priority has been given first to Annex III, second to Annex V and third to Annex IV.

At the 23rd Session of the MEPC (July 7 - 11, 1986), positive steps were taken toward entry into force of Annex V. It was agreed that no amendments would be made to Annex V prior to its entry into force. However, it was also agreed that an amendment to Regulation 6 of the Annex be circulated in accordance with a "tacit amendment" procedure (Article 16 of MARPOL) after entry into force. This procedure provides for automatic amendment of the Annex unless, within a specified time, written objections are made by one-third of the parties to the Convention or parties with combined merchant fleets representing at least 50 percent of the world's merchant fleet. Such a procedure allows for expedited amendment of the Annex.

The amendment to Regulation 6 of Annex V agreed to by MEPC was originally proposed by the United States and merely clarifies the existing provision. As currently stated, Regulation 6 provides several exceptions to the prohibition of discharges. One such exception is the "accidental loss of synthetic fishing nets or synthetic material incidental to the repair of such nets, provided that all reasonable precautions have been taken to prevent such loss." The United States suggested, and the Working Group agreed, that the phrase "incidental to the repair of such nets" be deleted from this exception. The rationale behind the clarification is that many of the lost net pieces are discarded through repair, which would render the Annex ineffective. Regulation 6, as amended, would except only accidental loss of nets, and would remain applicable for nets intentionally discharged or negligently lost in the course of repair.

The Oceanic Society strongly supports ratification of MARPOL Annex V by the United States. U.S. ratification would contribute more than the 1.0 percent now needed for its entry into force, and will provide the necessary incentive for other states to ratify as well. Further, U.S. ratification of Annex V will serve as a message to the world community of our commitment to addressing this problem in a more effective manner.

That plastic pollution is a serious environmental problem and that acceptance of Annex V will contribute significantly to solving that problem has been recognized by the Administration, the shipping industry, the plastics industry, fishing interests, and the environmental community. Given this overwhelming public support, we strongly urge prompt Senate advice and consent for U.S. ratification of Annex V.

Domestic Implementation of Annex V

Other than a provision that states ensure that adequate reception facilities are available to receive wastes under Annex V, no specific measures to facilitate mitigation of the marine debris problem are offered in the Annex. Annex V leaves to vessel owners the choice of whether to refrain from bringing plastic on board, to install onboard incinerators or to utilize reception facilities for discharge of plastics on shore. At the 23rd Session of the Marine Environment Protection Committee (MEPC 23; February 19-23 1987), a working group was

convened to discuss effective means for implementing Annex V. During that working group session, the United States offered to draft guidelines for the next session of MEPC (MEPC 25; 30 November - 4 December 1987).

We recognize at the outset that the wide variety of ship designs, sizes and uses makes implementation of Annex V a special challenge. For this reason, we believe it is appropriate to strive for a high degree of flexibility in our initial attempts to implement the Annex. Several bills have been introduced to implement Annex V domestically (H.R. 940, S. 535, and S. 633).

The Oceanic Society has commented on domestic implementing legislation for Annex V in July 23, 1987 testimony before the House Subcommittee on Fisheries and Wildlife and House Subcommittee on Coast Guard and Navigation, and July 29, 1987 testimony before the Senate's National Ocean Policy Study. Copies of this testimony are available upon request. In general, the Society supports requirements for ships to develop individual waste management plans; to keep a log of waste disposal practices; and to present waste at port in accordance with the waste management plan.

In treating Annex V as a global common denominator, states should view its provisions as providing minimum guidelines. Too often the minimum guidelines established internationally are treated in practice as the maximum standards to be applied. The measures we have suggested go beyond Annex V but are necessary to give practical meaning to enforcement and implementation of the Annex and to most effectively address marine pollution in a broader sense.

Conclusion

It is clear that a major cooperative effort will be needed if we are to successfully cope with the problem of plastics and marine debris in the world's oceans. Although effective implementation and enforcement of protective measures provided in Annex V will undoubtedly be difficult, the barriers to success are not insurmountable.

The United States has played a leading role in encouraging strong international regulation of vessel-source pollution. The Oceanic Society is hopeful that U.S. efforts to address the problem of plastic pollution in the marine environment will continue to reflect this leadership role.

Through international cooperation, strong domestic initiatives, public education and continued scientific efforts to better understand the problem, our collective responsibility to protect our precious ocean and coastal resources can be met.

In closing, the Oceanic Society urges speedy action by this Committee to favorably report out on Annex V with a recommendation for Senate advice and consent. We look forward to assisting you and other Members in both the Senate and the House in bringing into effect -- as quickly as possible -- both U.S. ratification of Annex V and environmentally sound domestic legislation.

Coastal States Organization

An alliance of the Coastal States, Commonwealths, and Territories providing an effective voice in the formulation, development, and implementation of national marine and coastal resource programs and policies.

CHAIRMAN
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July 28, 1987

The Honorable Claiborne Pell, Chairman
Committee on Foreign Relations
United States Senate
Washington, D.C. 20510

Dear Senator Pell:

I understand that the Committee on Foreign Relations plans to conduct a hearing this week to receive testimony regarding ratification of Annex V to the International Convention for the Prevention of Pollution from Ships (MARPOL). The Coastal States Organization, an organization representing the governors of 35 coastal States and Territories, is grateful for the opportunity to submit a written statement in support of ratification for the hearing record. At our semi-annual meeting in May, the enclosed policy position on Annex V was unanimously adopted by 26 attending coastal States.

Thank you for considering our views in this matter.

Sincerely,

Richard F. Delaney
Chair

Encl

Coastal States Organization

POLICY POSITION: ANNEX V OF THE MARPOL TREATY

The United States is blessed with thousands of miles of beaches that play major roles in recreation, tourism and the habitat so crucial to aquatic wildlife. The general condition of those beaches, however, is shameful as a result of litter and garbage deposited on them by beach visitors and washed ashore from the adjacent oceans. Any long-term solution of the beach garbage problem requires identification and elimination of the sources of marine garbage. Studies indicate that 75% to 90% of such beach garbage results from offshore sources such as ships and offshore oil and gas platforms. The International Maritime Organization has proposed Annex V to the International Convention for the Prevention of Pollution from Ships (MARPOL) which would regulate ocean dumping of garbage from ships. Annex V of MARPOL has been sent to the United States Senate for advice and consent, and is currently under consideration by the Senate Foreign Relations Committee.

The Coastal States Organization, therefore, strongly urges that:

- the United States ratify Annex V of MARPOL at the earliest possible date;
- the Congress of the United States approve effective, enforceable implementation legislation for Annex V at the earliest possible date; and
- because of the special nature of the Gulf of Mexico as a shallow closed basin, the International Maritime Organization designate the Gulf of Mexico as a "special area" in which no ocean dumping of garbage from ships would be allowed.

Adopted May 28, 1987